

ORDINANCE NO. 20110623-085

**AN ORDINANCE APPROVING A SUBSTITUTE
LETTER OF CREDIT REIMBURSEMENT
AGREEMENT RELATING TO THE "CITY OF
AUSTIN, TEXAS, COMBINED UTILITY SYSTEMS
TAXABLE COMMERCIAL PAPER NOTES"**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS

The City Council finds that:

1. On June 29, 2000, Ordinance No. 000629-90 was adopted amending and restating Ordinance No. 980513-B to increase the aggregate principal amount of "City of Austin, Texas, Combined Utility Systems Taxable Commercial Paper Notes" (the "Notes") authorized to be outstanding from time to time from \$60,000,000 to \$160,000,000 and provide for a new letter of credit (the "Letter of Credit") to be issued by Landesbank Hessen-Thuringen Girozentrale, acting through its New York Branch (the "Original Provider") with respect to the Notes in accordance with the terms and provisions of a Letter of Credit and Reimbursement Agreement, dated as of July 1, 2000 (the "Agreement");
2. The Agreement has been amended by the First Amendment to Letter of Credit and Reimbursement Agreement, dated and effective as of August 14, 2001 (the "First Amendment") approved by Ordinance No. 010802-24 adopted by the City Council on August 2, 2001, the Second Amendment to Letter of Credit and Reimbursement Agreement, dated and effective as of October 6, 2004 (the "Second Amendment") approved by Ordinance No. 040930-8 adopted by the City Council on September 30, 2004, the Third Amendment to Letter of Credit and Reimbursement Agreement, dated and effective as of July 14, 2005 (the "Third Amendment") approved by Ordinance No. 050623-15 adopted by the City Council on June 23, 2005 and Fourth Amendment to Letter of Credit and Reimbursement Agreement, dated and effective as of June 29, 2008 (the "Fourth Amendment") approved by Ordinance No. 20080618-057 adopted by the City Council on June 18, 2008;
3. The Letter of Credit Amount, as defined in the Letter of Credit, as amended, and the Agreement, has been reduced to \$50,000,000;

4. In accordance with Section 2.16 of the Agreement, as amended, the Original Provider has filed with the City a Notice of Optional Termination Date notifying the City that the Original Provider has elected to terminate the Letter of Credit on July 13, 2011.

5. The City is required to provide a substitute liquidity facility to support the Notes on or before the expiration date of the Letter of Credit.

6. A Letter of Credit Reimbursement Agreement, dated as of June 1, 2011 (“Reimbursement Agreement”), by and among the City and JPMorgan Chase Bank, National Association (the “Bank”), to be effective on July 11, 2011, and a Fee Agreement, dated as of June 1, 2011 between the City and the Bank (“Fee Agreement”) have been submitted to the City Council of the City for approval and execution.

7. The City Council finds and determines that the Reimbursement Agreement and Fee Agreement should be approved and City Council should authorize the execution of the Reimbursement Agreement and Fee Agreement.

PART 2. APPROVAL AND AUTHORIZATION FOR EXECUTION.

- (A) City Council approves the Reimbursement Agreement substantially in the form attached as Exhibit A.
- (B) City Council approves and authorizes the Fee Agreement substantially in the form attached as Exhibit B.

PART 3. The Mayor, City Manager, Chief Financial Officer, City Treasurer, City Clerk, Deputy City Clerk, and/or City Attorney are authorized and directed to execute and deliver the Reimbursement Agreement, the Fee Agreement and any related document on behalf of the City.

PART 4. PUBLIC MEETING. The meeting at which this ordinance was adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given; all as required by Texas, Government Code, Chapter 551.

PART 5. This ordinance takes effect on July 5, 2011.

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PASSED AND APPROVED

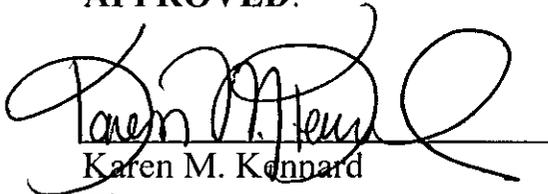
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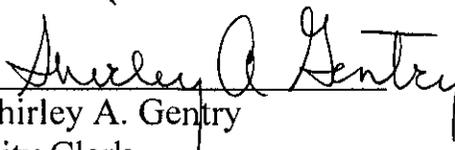
Lee Leffingwell
Mayor

APPROVED:



Karen M. Kennard
City Attorney

ATTEST:



Shirley A. Gentry
City Clerk

EXHIBIT A
REIMBURSEMENT AGREEMENT

Draft June 9, 2011

LETTER OF CREDIT REIMBURSEMENT AGREEMENT

between

CITY OF AUSTIN, TEXAS,
(the "City")

and

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION
(the "Bank")

Relating to up to

\$50,000,000
City of Austin, Texas
Combined Utility Systems Taxable
Commercial Paper Notes

Dated as of June 1, 2011

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LETTER OF CREDIT REIMBURSEMENT AGREEMENT

THIS LETTER OF CREDIT REIMBURSEMENT AGREEMENT (this "Reimbursement Agreement") is executed and entered into as of June 1, 2011 by and between **THE CITY OF AUSTIN, TEXAS** (the "City") and **JPMORGAN CHASE BANK, NATIONAL ASSOCIATION** (the "Bank"). All capitalized terms used herein and not otherwise defined in connection with such use shall have the meanings set forth in Article I.

WHEREAS, pursuant to the provisions of its home rule charter, Chapter 1371, Texas Government Code ("Chapter 1371"), and the Ordinance (as hereinafter defined), the City Council, as the governing body of the City (the "City Council"), has authorized the issuance and delivery from time to time of the City's Combined Utility Systems Taxable Commercial Paper Notes (the "Notes"); and

WHEREAS, Chapter 1371 authorizes the City to execute a letter of credit and a reimbursement agreement with respect to the Notes; and

WHEREAS, the City has requested the Bank to issue a Letter of Credit to the Issuing and Paying Agent, as beneficiary, in order to assure timely payment of the Notes in accordance with their terms; and

WHEREAS, the Obligations of the City hereunder are secured by a pledge of the Pledged Revenues which pledge is subordinate only to the pledge thereof securing the Priority Lien Obligations;

NOW, THEREFORE, in consideration of the agreements set forth herein and in order to induce the Bank to issue the letter of credit, the Bank and the City agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to terms defined at other places in this Reimbursement Agreement, the following defined terms are used throughout this Reimbursement Agreement with the following meanings:

"Accountant" means an independent certified public accountant or a firm of independent certified public accountants, selected by the City and satisfactory to the Bank.

"Advance" as defined in Section 2.03(b) hereof.

"Advance Maturity Date" as defined in Section 2.03(c) hereof.

"Bank Rate" has the meaning assigned to such term in the Fee Agreement.

"Base Rate" has the meaning assigned such term in the Fee Agreement.

"Business Day" means any day other than (a) a Saturday or Sunday or other day on which commercial banks in New York, New York, or the City are authorized or required by law or executive order to close, or (b) a day on which the New York Stock Exchange is authorized or obligated by law or executive order to be closed, or (c) a day on which commercial banks are authorized or required by law or executive order to be closed in the city in which demands for payment are to be presented under the Letter of Credit, which initially shall be Chicago, Illinois.

"Calendar Quarter" means each calendar quarter ending December 31, March 31, June 30 and September 30.

"Code" means the Internal Revenue Code of 1986, and any successor statute thereto.

"Closing Date" means the date on which all conditions precedent to the effectiveness of this Reimbursement Agreement in Article III are satisfied, which shall be July 11, 2011.

"Commitment" means \$55,625,000 as such amount may be reduced from time to time pursuant to Section 2.02 and Section 7.01(b).

"Commitment Expiration Date" means July 11, 2014, or such later date established as the Commitment Expiration Date pursuant to Section 9.02(b) or such earlier date on which the Bank may terminate its Commitment as provided herein or the date on which the City may terminate the Bank's Commitment as provided herein. In the event the Commitment Expiration Date is scheduled to occur on a day which is not a Business Day, the Commitment Expiration Date shall occur on the next preceding Business Day.

"Commitment Fee" shall have the meaning given to such term in Section 2.05(c)

"Conversion Date" means, with respect to a particular Advance, the Advance Maturity Date for such Advance.

"Date of Issuance" means the date on which the Letter of Credit is executed by the Bank and delivered to the Issuing and Paying Agent pursuant to Section 2.01, which shall be July 11, 2011.

"Dealer" means Goldman, Sachs & Co. in its capacity as dealer under the Dealer Agreement, together with any successors or assigns, or such other entity or entities as may be selected by the City with the consent of the Bank act as a dealer or co-dealer.

"Dealer Agreement" means that certain Dealer Agreement, dated as of July 1, 2000, between the City and Goldman, Sachs & Co., as the same may be amended, supplemented or extended from time to time pursuant to the terms thereof and hereof, and (ii) any other dealer agreement entered into from time to time in connection with the Notes.

"Default" means the occurrence of any event which with the giving of notice or the passage of time or both would constitute an Event of Default.

"Default Rate" shall have the meaning given to such term in the Fee Agreement.

"Dodd-Frank Act" means the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, as enacted by the United States Congress, and signed into law on July 21, 2010, and all statutes, rules, guidelines or directives promulgated thereunder.

"Drawing" means a drawing under the Letter of Credit to pay amounts due on Notes at maturity.

"Event of Default" means the occurrence of any of the events defined as such in Section 7.01.

"Fed Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Bank on such day on such transactions as determined by the Bank.

"Fee Agreement" means the agreement between the City and the Bank dated as of June 1, 2011 setting forth the fees and interest rates related to this Agreement.

"Fitch" means Fitch, Inc., and its successors and assigns.

"Governmental Authority" means any government or political subdivision or any agency, authority, bureau, central bank, commission, department or instrumentality thereof, or any court, tribunal, grand jury or arbitrator, in each case either foreign or domestic.

"Interest Portion" means that portion of each Drawing used to pay interest accrued on Notes at maturity.

"Issuing and Paying Agency Agreement" means the Issuing and Paying Agency Agreement, dated as of July 1, 2000, between the Issuing and Paying Agent and the City, as the same may be amended, supplemented or extended from time to time pursuant to the terms thereof and hereof and any other similar agreement between the City and any successor issuing and paying agent.

"Issuing and Paying Agent" means the institution appointed from time to time by the City to act as Issuing and Paying Agent under the Issuing and Paying Agency Agreement, which on the Closing Date is U.S. Bank Trust National Association, New York, New York (formerly First Trust of New York, NA).

"Letter of Credit" means the Irrevocable Letter of Credit issued by the Bank pursuant to this Reimbursement Agreement dated the Date of Issuance, including such amendments, modifications or supplements permitted pursuant to its terms and the Reimbursement Agreement.

“Letter of Credit Expiration Date” means the date on which the Letter of Credit is scheduled to expire as specified in the seventh paragraph of the Letter of Credit, as such date may be extended from time to time.

“Letter of Credit Fee” shall have the meaning given to such term in Section 2.05(c).

“Maximum Rate” means, with respect to any Obligations of the City and at any time, the lesser of (i) the maximum nonusurious rate of interest permitted to be charged on such obligation by applicable federal or State law (whichever shall permit the higher lawful rate) from time to time in effect or (ii) the maximum “net effective interest rate” permitted by present or future law to be paid on Obligations issued or incurred by the City in the exercise of its borrowing powers, as currently prescribed by Chapter 1204, Texas Government Code.

“Moody’s” means Moody’s Investors Service, Inc., and its successors and assigns.

“No-Issuance Notice” means the written instruction given by the Bank to the City and the Issuing and Paying Agent pursuant to Section 7.02(b) hereof.

“Notes” means the City’s Combined Utility Systems Taxable Commercial Paper Notes which may be outstanding at anyone time in an amount which, together with accrued interest to their maturity, will not exceed \$55,625,000.

“Obligations” means the Reimbursement Obligations, the Letter of Credit Fees, the Commitment Fees and all other obligations of the City to the Bank arising under or in relation to this Reimbursement Agreement.

“Offering Memorandum” means the Offering Memorandum to be delivered in connection with the Notes, together with any material attached or appended thereto, as the same may be amended or supplemented from time to time.

“Ordinance” means Ordinance No. 000629-90 of the City Council, adopted on June 29, 2000, amending and restating Ordinance No. 980513-B of the City Council, adopted on May 13, 1998, authorizing the issuance of Parity Notes.

“Parity Bank” means any bank that is a party to the Parity Reimbursement Agreement.

“Parity Electric Utility Obligations” are obligations of the City issued pursuant to Ordinance No. 010118-53A adopted on January 18, 2001, governing the issuance of City’s electric utility system indebtedness.

“Parity Lien Obligations” means the City’s obligations under the Parity Notes and the Parity Reimbursement Agreement.

“Parity Notes” means the City’s Combined Utility Systems Commercial Paper Notes, Series A.

"Parity Note Ordinance" means Ordinance No. 961121-A of the City Council, adopted on November 21, 1996, amending and restating Ordinance No. 930318-A of the City Council and authorizing the issuance of the Notes and as amended by Ordinance No. 980513-A.

"Parity Reimbursement Agreement" means the Amended and Restated Letter of Credit and Reimbursement Agreement pertaining to the Parity Notes dated as of March 1, 2010, by and among City, the banks that are signatory thereto and JPMorgan Chase Bank, National Association, as agent for the banks, or any other credit facility that provides credit support for the Parity Notes.

"Parity Water/Wastewater Obligations" are obligations of the City issued pursuant to Ordinance No. 930318-A, as amended by Ordinance No. 961121-A and Ordinance No. 980513-A governing the issuance of the City's water/sewer system indebtedness.

"Participant(s)" means any bank(s) or other financial institution(s) which may purchase a participation interest from the Bank in the Letter of Credit, this Reimbursement Agreement and certain of the Related Documents pursuant to a participation agreement between the Bank and the Participant(s).

"Person" means any natural person, corporation, partnership, association, trust, joint venture, public body or other legal entity.

"Pledged Revenues" shall have the meaning set forth in the Ordinance.

"Prime Rate" means the rate of interest announced by the Bank from time to time as its prime commercial rate or equivalent, as in effect on such day for United States dollar loans, with any change in the Prime Rate resulting from a change in said prime commercial rate to be effective as of the date of the relevant change in said prime commercial rate.

"Principal Portion" means that portion of each Drawing used to pay the principal of Notes at maturity.

"Priority Lien Obligations" shall have the meaning set forth in the Ordinance.

"Rating Agency" means S&P, Moody's or Fitch, or any successor or additional rating agency that rates the Notes at the written request of the City with the written consent of the Bank.

"Reimbursement Agreement" means this Letter of Credit Reimbursement Agreement, including such amendments, modifications or supplements permitted pursuant to Section 10.02.

"Reimbursement Agreement Ordinance" means Ordinance No. 20110623-___ of the City Council adopted on June 23, 2011, authorizing the execution and delivery of the Reimbursement Agreement.

"Reimbursement Obligations" means the obligations of the City under this Reimbursement Agreement to reimburse the Bank for Drawings under the Letter of Credit and

all obligations to repay the Bank for any Advance or Term Loan, including in each instance all interest accrued thereon in accordance with this Reimbursement Agreement.

"Related Documents" means, collectively, this Reimbursement Agreement, the Dealer Agreement, the Letter of Credit, the Notes, the Ordinance, the Reimbursement Agreement Ordinance, the Issuing and Paying Agency Agreement and any exhibits, instruments or agreements relating thereto.

"Replacement Bank" means any commercial bank made party to this Reimbursement Agreement and the Letter of Credit pursuant to Section 2.11.

"Request for Adjustment" as defined in Section 2.02(a) hereof.

"Requestor Adjustment" means a written request in the form of Exhibit A from the City to the Bank to increase or decrease the Stated Amount.

"S&P" means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business.

"Security" shall have the meaning given to such term in Section 6.01 of this Reimbursement Agreement.

"Stated Amount" shall have the meaning given to such term in the Letter of Credit.

"Stated Amount Adjustment Date" means each date on which the Stated Amount is adjusted pursuant to Section 2.02(a).

"Subordinate Lien Bonds" shall have the meaning set forth in the Ordinance.

"Termination Date" means the date on which the Letter of Credit terminates or expires as described in the seventh paragraph of the Letter of Credit.

"Termination Fee" has the meaning set forth in the Fee Agreement.

"Term Loan" as defined in Section 2.03(e) hereof.

"Term Loan Maturity Date" means with respect to any Term Loan, the third anniversary of the date the related Advance was made.

"Term Loan Rate" has the meaning set forth in the Fee Agreement.

"Unutilized Commitment" means, as adjusted from time to time, an amount equal to the Commitment minus the Stated Amount, determined without regard to reductions in such Stated Amount subject to automatic reinstatement as provided in the Letter of Credit.

Section 1.02. Accounting Matters. All accounting terms used herein without definition shall be interpreted in accordance with generally accepted accounting principles, and except as otherwise expressly provided herein all accounting determinations required to be made pursuant to this Reimbursement Agreement shall be made in accordance with generally accepted

accounting principles as applicable to governmental entities such as the City, consistently applied.

Section 1.03. Interpretation. All words used herein shall be construed to be of such gender or number as the circumstances require. Any reference herein to an Article or Section shall constitute a reference to the corresponding Article or Section of this Reimbursement Agreement unless otherwise specified. Reference to any document means such document as amended or supplemented from time to time as permitted under Section 10.07. All references to time herein shall, unless otherwise specified constitute a reference to the prevailing time in New York, New York.

Section 1.04. Relation to Other Documents. Nothing in this Reimbursement Agreement shall be deemed to amend, or relieve the City of any of its obligations under, any Related Document. To the extent any provision of this Reimbursement Agreement conflicts with any provision of any other Related Document to which the City and the Bank are parties, the provisions of this Reimbursement Agreement shall control.

Section 1.05. Incorporation of Certain Definitions by Reference. Any capitalized terms used herein and not otherwise defined herein shall have the respective meanings given to such terms in the Ordinance or the Reimbursement Agreement Ordinance, as applicable.

ARTICLE II

REIMBURSEMENT, REIMBURSEMENT NOTES, FEES AND PAYMENT PROVISIONS

Section 2.01. Issuance of the Letter of Credit. The Bank agrees to issue the Letter of Credit on July 11, 2011 if the conditions set forth in this Section and in Article III are satisfied. In addition to the conditions set forth in Article III, on the Date of Issuance the following conditions shall be satisfied as determined by the Bank:

(a) The Stated Amount of the Letter of Credit shall not exceed the Commitment.

(b) All representations and warranties of the City contained in Article IV shall be true and correct.

(c) No Default or Event of Default shall have occurred and be continuing and no Default or Event of Default shall occur as a result of the issuance of the Letter of Credit.

Section 2.02. Adjustment in the Stated Amount and Reduction, Expiration and Termination of the Commitment.

(a) *Adjustment of Stated Amount.* The Stated Amount shall be subject to automatic reduction and reinstatement in the amounts and upon the terms and conditions set forth in the Letter of Credit. The City may, however, from time to time, but no more often than twice in any 30-day period, request that the Stated Amount be increased or

decreased from time to time by delivery of a Request for Adjustment (a "Request for Adjustment") to the Bank; provided, however, such Request for Adjustment shall not duplicate the automatic reduction and reinstatement of the Stated Amount due to any draw and repayment under the Letter of Credit. Delivery of a Request for Adjustment may be accomplished by telecopy or by e-mail with a pdf copy or other replicating image attached to the Bank of an executed Request for Adjustment followed promptly by the submission of an executed original of the Request for Adjustment. The minimum amount of any requested adjustment shall be \$10,000,000 in Principal Portion. Upon delivery by the city to the Bank, each Request for Adjustment shall be irrevocable. The Bank agrees, upon satisfaction of the conditions set forth in this Section, to adjust the Stated Amount from time to time prior to the Commitment Expiration Date; provided, that no requested increase in the Stated Amount shall be for an amount in excess of the Unutilized Commitment on the date of such Request for Adjustment. In no event shall the Stated Amount exceed the Commitment. Upon satisfaction of the conditions precedent set forth in Section 2.02(b) the Bank shall execute and deliver a Notice of Adjustment in the Stated Amount in the form of Exhibit F to the Letter of Credit to the Issuing and Paying Agent and upon such delivery and the acknowledgement thereof by the Issuing and Paying Agent the Stated Amount shall be adjusted to the amount set forth in such notice.

(b) *Conditions Precedent to Adjustment in Stated Amount.* As a condition precedent to any adjustment in the Stated Amount pursuant to a Request for Adjustment, each of the following conditions shall be satisfied as determined by the Bank, on behalf of the Bank:

(i) The Bank shall have received a telecopy or e-mail with a pdf copy or other replicating image attached of an executed Request for Adjustment at least 10 Business Days prior to the proposed Stated Amount Adjustment Date.

(ii) The Commitment Expiration Date shall not have occurred.

(iii) All representations and warranties of the City contained in Article IV shall be true and correct on the Stated Amount Adjustment Date.

(iv) No Default or Event of Default shall have occurred and be continuing and no Default or Event of Default shall occur as a result of the requested adjustment in the Stated Amount.

(v) If the Request for Adjustment requests an increase in the Stated Amount, the amount of the increase in the Stated Amount shall not exceed the Unutilized Commitment.

(vi) If the Request for Adjustment requests an increase in the Stated Amount, the rating on neither the City's Parity Electric Utility Obligations nor the rating on the City's Parity Water/Wastewater Obligations, shall be lower than Baa2 by Moody's and BBB by S&P or Fitch on the Stated Amount Adjustment Date.

(c) **Commitment Expiration Date.** On and after the Commitment Expiration Date the Unutilized Commitment shall be reduced to zero and the Bank shall no longer be obligated to adjust the Stated Amount pursuant to this Section.

(d) **Substitute Letter of Credit.** The City agrees not to replace the Letter of Credit (or to direct the Issuing and Paying Agent to terminate the Letter of Credit without a replacement letter of credit being substituted therefor) prior to the earliest of (a) the Letter of Credit Expiration Date, or (b)(i) the payment by the City to the Bank of the Termination Fee, if applicable and (ii) the payment to the Bank of all Obligations payable hereunder, and (iii) providing the Bank notice of its intention to do so at least sixty (60) days prior to the date of such termination or replacement; provided that all payments to the Bank referred to in clauses (b)(i) and (b)(ii) above shall be made with immediately available funds. Notwithstanding any provisions of this Section to the contrary, the City may replace the Bank at any time without paying the Termination Fee if a rating of the Bank is lowered or withdrawn by Moody's, S&P or Fitch.

(e) **Reduction in Commitment.** The Commitment shall not be permanently reduced or terminated by the City while the Letter of Credit is in effect.

Section 2.03. Reimbursement of Drawings.

(a) **Reimbursement for Drawings.** Each time that a Drawing is made under the Letter of Credit to pay the principal of and interest on maturing Notes, the City, after the Bank has honored such Drawing, shall reimburse the Bank, for the full amount of such Drawing by causing the Issuing and Paying Agent to wire transfer to the Bank amounts in the Note Payment Fund held by the Issuing and Paying Agent, which represent (i) the proceeds of refunding Notes issued to refund maturing Notes and (ii) amounts deposited therein by the City for the purpose of reimbursing the Bank for Drawings under the Letter of Credit. Such transfer by the Issuing and Paying Agent shall be made not later than its close of business on the date that such Drawing is made. To the extent that the proceeds of refunding Notes deposited in the Note Payment Fund are insufficient to fully reimburse the Bank for any Drawing under the Letter of Credit, the City shall promptly deposit in the Note Payment Fund the amount of such insufficiency from the Security or from other lawfully available funds, in any case, only after the Bank has honored the related Drawing. Subject to the provisions in Section 2.03(b) any amount of a Drawing for which the Agent is not reimbursed on the same day as such Drawing is made (the "Unpaid Drawing") shall bear interest at the Default Rate until the Bank is reimbursed in full for such Drawing.

(b) **Making of Advances.** The Bank agrees that if (i) the Bank shall honor any Drawing under the Letter of Credit, (ii) the amount of such Drawing shall not be reimbursed in full on the date of such Drawing by payment to the Bank for the account of the Bank as provided in Section 2.03(a) hereof, and (iii) (A) the representations and warranties of the City contained in Article IV of this Reimbursement Agreement are true and correct as of the date of such Drawing and (B) no Default or Event of Default shall have occurred and be continuing on the date of such Drawing, the amount of such Drawing (or the portion thereof) which is not so reimbursed by the City to the Bank shall

automatically constitute an advance made by the Bank to the City on the date and in an amount equal to the amount of such Drawing (or portion thereof) which is not so reimbursed by the City to the Bank (individually an "Advance" and, collectively, the "Advances"). For purposes of Section 2.03(a) hereof, each Advance when made shall constitute reimbursement of the related Drawing in an amount equal to the principal amount of such Advance; and each Advance when made shall preclude, to the extent of the amount of such Advance, the related Drawing from being or constituting an Unpaid Drawing. Unless the City shall have otherwise previously advised the Bank in writing, payment by the Bank of any Drawing under the Letter of Credit shall be deemed to constitute a representation and warranty by the City that on the date of such Drawing (i) the representations and warranties of the City contained in Article IV are true and correct, (ii) no Default or Event of Default has occurred and is continuing, and (iii) a No-Issuance Notice shall not be in effect.

(c) ***Payment of Principal and Interest on Advances.*** Except as otherwise required or permitted by Section 2.03(e), and Section 2.03(f) of this Reimbursement Agreement, the City shall repay, or cause to be repaid, the unpaid amount of each Advance on or before the 90th day next following the date of such Advance (with respect to such Advance, the "Advance Maturity Date"). The City shall pay interest on the unpaid amount of each Advance from the date of such Advance until paid in full at the Bank Rate from time to time in effect. Interest on each Advance shall be payable monthly, in arrears, on the first day of each month for the immediately preceding calendar month (commencing with the first such date to occur after the making of the related Advance) and upon prepayment or maturity of such Advance.

(d) ***Optional Prepayment.*** The City may prepay Advances in whole, or in part in a minimum amount of \$1,000,000 and in integral multiples of \$100,000 in excess thereof, in each case without penalty or premium on one Business Day's prior written notice.

(e) ***Term Loans.*** On the earlier of the Termination Date or the Advance Maturity Date, each Advance maturing on such date, if the conditions set forth in Section 2.03(f) have been satisfied, shall be converted to a loan (a "Term Loan").

(f) ***Conditions Precedent to Term Loans.*** Amounts owed by the City for any Advance remaining unpaid on their respective Advance Maturity Dates shall be converted to Term Loans if and only if:

(i) the representations and warranties of the City contained in Article IV of this Reimbursement Agreement are true and correct on and as of the Conversion Date as though made on and as of such date, and

(ii) no Default or Event of Default has occurred and is continuing or would result from converting the Advance to a Term Loan.

(iii) a No-Issuance Notice shall not be in effect.

(g) **Repayment of Term Loans.** The City agrees to pay to the Bank an amount equal to the unpaid principal amount of each Term Loan made by the Bank together with interest thereon from and including the Conversion Date to but excluding the date the Bank is reimbursed therefor at a rate per annum equal to the Term Loan Rate; provided that from and after the occurrence of an Event of Default, each Term Loan shall bear interest at the Default Rate. Interest on the unpaid balance of each Term Loan shall be paid to the Bank monthly in arrears on the first day of each calendar month during the term of such Term Loan for the immediately preceding calendar month (commencing with the first such date to occur after the Conversion Date) and on the Term Loan Maturity Date. Each Term Loan shall be repaid in 12 equal quarterly installments (each such installment herein referred to as a “Principal Payment”), such Principal Payments to be made on or before the date 90 days after the Drawing to which such Term Loan relates, and each date occurring every three (3) months thereafter, until paid in full; provided that the unpaid amount of each Term Loan shall be paid in full not later than the applicable Term Loan Maturity Date; provided further, that if the City elects to prepay a Term Loan in part, each such prepayment shall be applied (i) to the Term Loans in inverse order of the Conversion Dates of the Term Loans and (ii) to the remaining Principal Payments relating to each Term Loan prepaid in inverse order of the date of such Principal Payment.

(h) **Prepayment of Term Loans.** The City may prepay any Term Loan in whole, or in part in a minimum amount of \$1,000,000 and in integral multiples of \$100,000 in excess thereof, in each case without penalty on one Business Day’s prior written notice.

(i) **Maximum Rate of Interest.** Notwithstanding anything in this Reimbursement Agreement to the contrary, the City shall never be required to pay any interest pursuant to this Reimbursement Agreement in excess of the Maximum Rate, and if the effective rate of interest that would otherwise be payable under this Reimbursement Agreement is ever determined or interpreted so as to exceed the Maximum Rate, then

(i) the rate of interest that would otherwise be payable under this Reimbursement Agreement shall be reduced to the Maximum Rate, and

(ii) any amount of interest collected or received by the Bank pursuant to this Reimbursement Agreement in excess of the Maximum Rate shall, at the option of the Bank, be either refunded to the City or credited to any amount of principal owing to the Bank hereunder and the provisions of this Reimbursement Agreement and the other Related Documents shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder, reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder.

It is further agreed that, without limitation of the foregoing, all calculations of the rate of interest contracted for, charged or received by the Bank under this Reimbursement Agreement that are made for the purpose of determining whether such rate exceeds the

Maximum Rate shall be made, to the extent permitted by applicable usury laws (now or, to the extent lawful, hereafter enacted), by amortizing, allocating, prorating and spreading in equal parts during the full stated term of this Reimbursement Agreement all interest at any time contracted for, charged or received by the Bank in connection herewith. If at any time and from time to time (A) the amount of interest payable to the Bank on any date shall be computed at the Maximum Rate pursuant to this Section, and (B) in respect of any subsequent interest computation period, the amount of interest otherwise payable to the Bank would be less than the amount of interest payable to the Bank computed at the Maximum Rate, then the amount of interest payable to the Bank in respect of such subsequent interest computation period shall continue to be computed at the Maximum Rate until the total amount of interest paid to the Bank shall be equal to the total amount of interest which would have been payable to the Bank if the total amount of interest had been computed without giving effect to this Section (the "Excess Interest"). Upon termination of the Letter of Credit and this Reimbursement Agreement, in consideration for the limitation of the rate of interest otherwise payable hereunder, the City shall pay to the Bank a fee equal to the amount of all unpaid deferred Excess Interest; provided, that in no event shall any such payment result in interest paid hereunder exceeding the Maximum Rate.

Section 2.04. Costs, Expenses and Taxes. The City agrees to pay on demand all costs and expenses of the Bank as set forth in the Fee Agreement. In addition, the City shall pay the reasonable costs and expenses of the Bank incurred in connection with the administration of the Reimbursement Agreement and the Related Documents and with respect to seeking the advise of counsel by the Bank as to its rights and responsibilities under this Reimbursement Agreement and the Related Documents including reasonable fees and expenses of counsel to the Bank incurred in connection with such administration. In addition, the City agrees to pay on demand all costs and expenses of the Bank, if any, in connection with the enforcement of this Reimbursement Agreement, the Related Documents and such other documents which may be delivered in connection with this Reimbursement Agreement and the Related Documents. Further, the City shall pay any and all stamp and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing and recording of this Reimbursement Agreement, the Related Documents and such other documents and agrees that the Bank shall have no responsibility for or liability with respect to or resulting from any delay in paying or omission to pay such taxes and fees.

Section 2.05. Letter of Credit, Commitment and Bank's Fees.

(a) **Fee Agreement.** The City hereby agrees to pay to the Bank the fees and rates set forth in the Fee Agreement.

(b) **Letter of Credit Fee.** As of (A) the last Business Day in each Calendar Quarter (or portion thereof), commencing on the Date of Issuance for the Letter of Credit and ending on the Termination Date, and (B) the Termination Date for the Letter of Credit, the City shall pay to the Bank a letter of credit fee (the "Letter of Credit Fee") for the Calendar Quarter (or portion thereof) then ending. The Letter of Credit Fee for such Calendar Quarter (or portion thereof) shall be an amount equal to the product of (1) the Applicable Letter of Credit Fee Percentage times (2) the Stated Amount times (3) a

fraction, the numerator of which is the number of days in such Calendar Quarter (or portion thereof) and the denominator of which is 360. The Letter of Credit Fee shall be due and owing as referenced above, and shall be payable, in arrears, as set forth in . In the event more than one Applicable Letter of Credit Fee Percentage or Stated Amount is in effect during a Calendar Quarter, the Letter of Credit Fee shall be determined by calculating a separate fee for each portion of such Calendar Quarter to which a different Applicable Letter of Credit Fee Percentage or Stated Amount applied and adding such separate fees together to determine the total Letter of Credit Fee for such Calendar Quarter.

(c) **Commitment Fee.** As of (A) the last Business Day in each Calendar Quarter (or portion thereof), commencing on the Date of Issuance for the Letter of Credit and ending on the Commitment Expiration Date, and (B) the Commitment Expiration Date the City shall pay to the Bank a commitment fee for the Unutilized Commitment (the “Commitment Fee”) for the Calendar Quarter (or portion thereof) then ending. The Commitment Fee for such Calendar Quarter (or portion thereof) shall be an amount equal to the product of (1) the Applicable Commitment Fee Percentage times (2) the amount of the Unutilized Commitment times (3) a fraction, the numerator of which is the number of days in such Calendar Quarter (or portion thereof) and the denominator of which is 360. The Commitment Fee shall be due and owing as referenced above, and shall be payable, in arrears, as set forth in . In the event more than one Applicable Commitment Fee Percentage or Total Unutilized Commitment amount is in effect during a Calendar Quarter, the Commitment Fee shall be determined by calculating a separate fee for each portion of such Calendar Quarter to which a different Applicable Commitment Fee Percentage or Total Unutilized Commitment amount applied and adding such separate fees together to determine the total Commitment Fee for such Calendar Quarter.

(d) **Payment of Letter of Credit Fee and Commitment Fee.** The Letter of Credit Fee and the Commitment Fee shall be paid to the Bank on or before the twelfth Business Day following the date on which the City receives written notice from the Bank specifying the amount of such fees, which notice shall be given as soon as practicable following the end of each Calendar Quarter. All calculations of the fees payable under this Reimbursement Agreement shall be made by the Bank and such calculations, absent manifest error, shall be conclusive of the amount due and shall be binding on the City. No fees payable to the Bank may be paid from Note proceeds. No fees paid to the Bank shall be refundable for any reason other than a manifest error in the calculation of the fee. As used in this Section 2.05, Section 2.06 and Section 2.08 “manifest error” means an arithmetic mistake.

Section 2.06. Increased Costs.

(a) Except as otherwise required by law, each payment by the City to the Bank under this Agreement or any other Related Document shall be made without setoff or counterclaim and without withholding for or on account of any present or future taxes (other than overall net income taxes on the recipient imposed by any jurisdiction having control of such recipient) imposed by or within the jurisdiction in which the City is domiciled, any jurisdiction from which the City makes any payment hereunder, or (in

each case) any political subdivision or taxing authority thereof or therein. If any such withholding is so required, the City shall make the withholding, pay the amount withheld to the appropriate Governmental Authority before penalties attach thereto or interest accrues thereon and forthwith pay such additional amount as may be necessary to ensure that the net amount actually received by the Bank free and clear of such taxes (including such taxes on such additional amount) is equal to the amount which the Bank would have received had such withholding not been made. If the Bank pays any amount in respect of any such taxes, penalties or interest, the City shall reimburse the Bank for that payment on demand in the currency in which such payment was made. If the City pays any such taxes, penalties or interest, it shall deliver official tax receipts evidencing that payment or certified copies thereof to the Bank on or before the thirtieth day after payment.

(b) If the Code or any newly adopted law, treaty, regulation, guideline or directive, or any change in any, law, treaty, regulation, guideline or directive or any new or modified interpretation of any of the foregoing by any authority or agency charged with the administration or interpretation thereof or any central bank or other fiscal, monetary or other authority having jurisdiction over the Bank or the transactions contemplated by this Reimbursement Agreement, whether or not having the force of law (each a "Change in Law") shall:

(i) limit the deductibility of interest on funds obtained by the Bank to pay any of its liabilities or subject the Bank to any tax, duty, charge, deduction or withholding on or with respect to payments relating to the Bonds, the Letter of Credit or this Reimbursement Agreement, or any amount paid or to be paid by the Bank as the issuer of the Letter of Credit (other than any tax measured by or based upon the overall net income of the Bank imposed by any jurisdiction having control over the Bank);

(ii) impose, modify, require, make or deem applicable to the Bank any reserve requirement, capital requirement, special deposit requirement, insurance assessment or similar requirement against any assets held by, deposits with or for the account of, or loans, letters of credit or commitments by, an office of the Bank;

(iii) change the basis of taxation of payments due the Bank under this Reimbursement Agreement or the Bonds (other than by a change in taxation of the overall net income of the Bank);

(iv) cause or deem letters of credit to be assets held by the Bank and/or as deposits on its books; or

(v) impose upon the Bank any other condition with respect to any amount paid or payable to or by the Bank or with respect to this Reimbursement Agreement or any of the other Related Documents;

and the result of any of the foregoing is to increase the cost to the Bank of making any payment or maintaining the Letter of Credit, or to reduce the amount of any payment

(whether of principal, interest or otherwise) receivable by the Bank, or to reduce the rate of return on the capital of the Bank or to require the Bank to make any payment on or calculated by reference to the gross amount of any sum received by it, in each case by an amount which the Bank in its reasonable judgment deems material, then:

(1) the Bank shall promptly notify the City in writing of such event;

(2) the Bank shall promptly deliver to the City a certificate stating the change which has occurred or the reserve requirements or other costs or conditions which have been imposed on the Bank or the request, direction or requirement with which it has complied, together with the date thereof, the amount of such increased cost, reduction or payment and a reasonably detailed description of the way in which such amount has been calculated, and the Bank's determination of such amounts, absent fraud or manifest error, shall be conclusive; and

(3) the Applicant shall pay to the Bank, from time to time as specified by the Bank, such an amount or amounts as will compensate the Bank for such additional cost, reduction or payment.

The protection of this Section 2.06 shall be available to the Bank regardless of any possible contention of invalidity or inapplicability of the law, regulation or condition which has been imposed; provided, however, that if it shall be later determined by the Bank that any amount so paid by the City pursuant to this Section 2.06 is in excess of the amount payable under the provisions hereof, the Bank shall refund such excess amount to the City. Notwithstanding the foregoing, for purposes of this Reimbursement Agreement (a) all requests, rules, guidelines or directives in connection with the Dodd-Frank Act shall be deemed to be a Change in Law, regardless of the date enacted, adopted or issued, and (b) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) or any Governmental Authority shall be deemed a Change in Law regardless of the date enacted, adopted or issued.

(c) The Bank shall provide written notice to the City of the occurrence of any event which the Bank anticipates will give rise to an obligation of the City to pay any amount under subsection (a) or (b) above; provided, however, that failure to provide such notice or any defect therein shall not affect the right of the Bank to receive or the obligation of the City to pay any obligation under subparagraph (a) or (b) above. A certificate setting forth such increased costs incurred by the Bank as a result of any event specified in this Section 2.06 submitted by the Bank to the City, shall be conclusive, absent manifest error, as to the amount thereof. In determining such amount, the Bank may use any reasonable averaging and attribution methods.

(d) The obligations of the City under this Section 2.06 shall survive the termination of this Reimbursement Agreement for acts or events that occurred during the term of this Reimbursement Agreement.

Section 2.07. Method of Payment. All payments by or on behalf of the City to the Bank (including payments by the Issuing and Paying Agent for the account of the Bank pursuant to Section 2.03) shall be made without set-off, counterclaim or deduction of any kind, in lawful currency of the United States of America, by wire transfer in immediately available funds to JPMorgan Chase Bank, National Association as follows:

(a) Payments to the Bank in respect of reimbursement of drawings paid by the Bank and transaction fees as specified in the Fee Agreement are to be made to the Bank at ABA 021 000 021, Account No. 3243317541, Attention: Standby Letter of Credit Services, Reference: JPMorgan Chase Bank, National Association, Letter of Credit No. _____;

(b) Payments to the Bank in respect of all other monies due the Bank are to be made to the Bank at ABA 021 000 021, Account No. 9008113381H0099, Attention: Loan & Agency Services, Reference: Austin Texas Combined Utility System-Taxable.

Any payment received by the Bank after 4:00 p.m. shall be deemed to have been received by the Bank on the next Business Day. If any payment hereunder is due on a day that is not a Business Day, then such payment shall be due on the immediately succeeding Business Day and such additional time shall be taken into account in calculating the fees or interest paid hereunder on such date.

Section 2.08. Maintenance of Accounts. The Bank shall maintain in accordance with its usual practice an account or accounts evidencing the Reimbursement Obligations of the City and the amounts payable and paid from time to time hereunder. In any legal action or proceeding in respect of this Reimbursement Agreement, the entries made in such account or accounts shall be presumptive evidence, in the absence of manifest error, of the existence and amounts of the Reimbursement Obligations of the City therein recorded. The failure to record any such amount shall not, however, limit or otherwise affect the obligations of the City hereunder to repay all amounts owed hereunder, together with all interest accrued thereon as provided in this Article II.

Section 2.09. Cure. The City agrees to pay to the Bank on demand any amounts advanced the Bank to the extent required to cure any default, event of default, or event of nonperformance under this Reimbursement Agreement or any Related Document. The Bank shall give the City reasonably prompt notice of any such advances. The Bank shall have the right, but not the obligation, to cure any such default, event of default or event of nonperformance.

Section 2.10. Withholding. All payments due hereunder shall be made in the amounts required hereunder without any reduction or setoff, notwithstanding the assertion of any right of recoupment or setoff or of any counterclaim by the City, and without any withholding on account of taxes, levies, duties or any other deduction whatsoever. If the City is required by law to withhold or deduct any sum from payments required under this Reimbursement Agreement, the City shall, to the extent permitted by applicable law, increase the amount paid by it to the Bank so that, after all withholdings and deductions, the amount received by the Bank shall equal the

amount the Bank would have received without any such withholding or deduction. The City shall promptly notify the Bank of each payment made pursuant to this Section.

Section 2.11. Replacement Bank. Subject to paying the Termination Fee pursuant to Section 2.02 hereof and upon 30 days notice to the Bank, the City may replace the Bank hereunder and under the Letter of Credit.

Section 2.12. Computation of Interest and Fees. Fees payable hereunder and pursuant to the Fee Agreement shall be calculated on the basis of a year of 360 days and the actual number of days elapsed. Interest payable hereunder and pursuant to the Fee Agreement shall be calculated on the basis of a year of 365 days and the actual number of days elapsed. Interest shall accrue during each period during which interest is computed from and including the first day thereof to but excluding the last day thereof.

Section 2.13. Payment Due on Non-Business Day to Be Made on Next Business Day. If any sum becomes payable pursuant to this Reimbursement Agreement on a day which is not a Business Day, the date for payment thereof shall be extended, without penalty, to the next succeeding Business Day, and such extended time shall be included in the computation of interest and fees.

Section 2.14. Late Payments. If the principal amount of any Obligation is not paid when due, such Obligation shall bear interest until paid in full at a rate per annum equal to the Default Rate.

Section 2.15. Source of Funds. All payments made by the Bank pursuant to the Letter of Credit shall be made from funds of the Bank, and not from the funds of any other Person.

Section 2.16. Issuance Generally. The City will permit Notes to be issued, and authorize the Issuing and Paying Agent to issue Notes, only in accordance with the terms of the Ordinance and this Reimbursement Agreement. The City shall not issue Notes if (i) a Default or an Event of Default shall have occurred and be continuing or would occur upon issuance of the Notes; or (ii) the representations and warranties of the City set forth in Article IV hereof shall, in the reasonable opinion of the Bank, no longer are true and correct in any material respect; (iii) or a No-Issuance Notice has been issued.

ARTICLE III

CONDITIONS PRECEDENT

Section 3.01. Conditions to Delivery of the Letter of Credit. The obligation of the Bank to issue the Letter of Credit is subject to the satisfaction of the following conditions:

- (a) On or before the Date of Issuance, the Bank shall receive (or waive receipt of) the following, all of which must be acceptable to the Bank and its counsel:
 - (i) an original counterpart of this Reimbursement Agreement and the Fee Agreement executed by all parties;

(ii) a copy of the Ordinance and the Reimbursement Agreement Ordinance, each certified as being true and correct by the City Clerk, and original executed counterparts or certified copies of the other Related Documents;

(iii) a certificate, dated the Date of Issuance, signed by the Mayor and City Clerk certifying: (A) that the Ordinance and the Reimbursement Agreement Ordinance have not been amended or further amended, as applicable, or revoked and are in full force and effect; (B) as to the incumbency and genuineness of the signature of each officer of the City executing this Reimbursement Agreement and the Related Documents; (C) that the City, as of such date, has complied in all material respects with all of the terms and provisions of this Reimbursement Agreement; (D) that on such date, and after giving effect to the consummation of the transactions contemplated by this Reimbursement Agreement, no Event of Default, or event which with the passage of time would constitute an Event of Default has occurred or is continuing; and (E) that the representations and warranties of the City contained in Article IV hereof are true and correct in all material respects on and as of the Date of Issuance as though made on and as of such date;

(iv) reserved;

(v) an opinion of Fulbright & Jaworski L.L.P., Bond Counsel, covering such other matters relating to the transactions contemplated by the Related Documents as the Bank shall reasonably request;

(vi) an opinion of Andrews Kurth LLP, Special Counsel for the Bank;

(vii) audited financial statements of the City for the fiscal year ended September 30, 2010 and a copy of the City's approved current budget for the fiscal year ending September 30, 2011, including such support documents and cash flow projections as may be requested by the Bank; and

(viii) such other documents, instruments, approvals or opinions as the Bank may reasonably request relating to the Related Documents or the transactions contemplated therein.

(b) There shall have been no material adverse change in the financial condition of the City since the date of the last audited financial statements.

(c) All amounts required to be paid to the Bank under this Reimbursement Agreement, including all fees and other costs then due and payable in connection with the negotiation, preparation, execution and delivery of this Reimbursement Agreement, have been paid in full.

(d) On or prior to the Date of Issuance, no change shall have occurred in any law or regulation or in any interpretation thereof that in the opinion of counsel for the Bank would make it illegal for the Bank to issue the Letter of Credit as provided herein.

(e) All conditions precedent to the issuance of the Letter of Credit in substitution for the Prior Letter of Credit are satisfied.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.01. Representations and Warranties of the City. The City represents and warrants that:

(a) the City is a “Home Rule City,” acting as such under the Constitution and laws of the State, and has full legal right, power and authority to (i) own, operate and maintain the Systems, (ii) adopt the Ordinance and the Reimbursement Agreement Ordinance, (iii) execute and deliver this Reimbursement Agreement and the Related Documents, (iv) issue and deliver the Notes, (v) pledge the Security, and (vi) perform fully and completely all its obligations and liabilities under the Ordinance, the Reimbursement Agreement Ordinance and this Reimbursement Agreement and under the Related Documents;

(b) the adoption and performance of the Ordinance and the issuance of the Notes thereunder and the adoption and performance of the Reimbursement Agreement Ordinance and the execution, delivery and performance of this Reimbursement Agreement and the Related Documents on the terms and conditions hereof and thereof have been duly authorized by all necessary action on the part of the City and will not violate or contravene any constitutional provisions or any existing law or regulation, or any order or decree of any Governmental Authority, or violate or cause a default under the Parity Note Ordinance any ordinance previously issued by the City or under the Parity Reimbursement Agreement or under any indenture, contract or other agreement to which the City is a party or that is binding upon it or any of its property; provided, however, that no representation or warranty is made hereunder with respect to the indemnification provisions of this Reimbursement Agreement;

(c) no consent of any Person and no license, approval or authorization of, nor notice to or registration, filing or declaration with, any Governmental Authority (other than any action that may be required under any state securities or blue sky laws) is required in connection with the adoption, performance, validity or enforceability of the Ordinance, the Reimbursement Agreement Ordinance, the issuance, validity or enforceability of the Notes, or the execution, delivery, performance, validity or enforceability of this Reimbursement Agreement or the Related Documents or, if required, the same has been obtained and is in full force and effect or, if not yet obtained, will be obtained on or before the Date of Issuance and will be in full force and effect on such date, and true copies thereof have been, or will be, delivered to the Bank on or before the Date of Issuance;

(d) the Ordinance, the Reimbursement Agreement Ordinance, this Reimbursement Agreement and the Related Documents constitute, and the Notes, when issued, will constitute, legal, valid and binding agreements or obligations, as the case may

be, of the City enforceable in accordance with their respective terms except as (i) the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium or other similar laws of general application affecting creditors' rights generally, (ii) the availability of equitable remedies may be limited by equitable principles of general applicability and (iii) the indemnification provisions therein may be limited by applicable securities laws and public policy;

(e) there are no actions, suits or proceedings pending or, to the knowledge of the City, threatened against or affecting it or its properties before any Governmental Authority in which there is reasonable possibility of an adverse decision which could materially and adversely affect the business, financial position or results of operations of the City or which in any manner questions the validity of the Ordinance, the Reimbursement Agreement Ordinance or this Reimbursement Agreement or any of the Related Documents or the City's ability to carry out the transactions contemplated hereby and thereby;

(f) no written information furnished by the City to the Bank in connection with the Ordinance, the Reimbursement Agreement Ordinance or this Reimbursement Agreement or any Related Documents contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statement made therein, in light of the circumstances in which they were made, not misleading in any material respect;

(g) the Ordinance, together with the Reimbursement Agreement Ordinance and this Reimbursement Agreement creates a valid lien on, pledge of, and security interest in the Security as security for the Notes and for the repayment of the City's obligations under this Reimbursement Agreement and all action necessary to perfect the lien on, pledge of, and security interest of the Bank in the Security has been duly and validly taken;

(h) the City has not taken any action, or omitted to take any action, which constitutes a default, or which with the passage of time or the giving of notice, or both, would constitute a default, under any ordinance, indenture, agreement or other instrument pursuant to which any outstanding Priority Lien Obligations have been issued; and

(i) the City hereby makes to the Bank the same representations and warranties as are made by the City in, or are incorporated by the City in, the Ordinance, the Reimbursement Agreement Ordinance or any of the Related Documents, which representations and warranties, as well as the related defined terms contained therein, are hereby incorporated by reference with the same effect as if each and every such representation and warranty and defined term was set forth herein in its entirety. No amendment to any such representation and warranty or defined term made pursuant to the Ordinance, the Reimbursement Agreement Ordinance or any Related Document shall be effective to amend such representation and warranty or such defined term as incorporated by reference herein without the prior consent of the Bank.

ARTICLE V

COVENANTS

Section 5.01. Covenants. The City covenants and agrees that, until after the Termination Date and the payment in full of all amounts owing to the Bank hereunder:

(a) it will, from time to time, at its expense, promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Bank may reasonably request, in order to (i) perfect and protect any lien, pledge, or security interest or other right or interest given, or purported to be given to the Bank under or in connection with this Reimbursement Agreement or (ii) enable the Bank to exercise or enforce their rights or remedies under or in connection with this Reimbursement Agreement;

(b) it will not, without the prior written consent of the Bank, enter into or consent to any amendments of or supplements to the Ordinance, the Reimbursement Agreement Ordinance or any Related Document or any waiver of the requirements thereof and no such amendment or supplement shall be effective without the prior written consent of the Bank, which consent shall not be unreasonably withheld;

(c) it will promptly notify the Bank of the occurrence of any "Event of Default" under the Ordinance or of a default under the Parity Note Ordinance, the Parity Reimbursement Agreement, or any ordinance, indenture, agreement or other instrument pursuant to which the Priority Lien Obligations are issued, specifying the details thereof and the action that the City proposes to take with respect thereto;

(d) it will permit, at any reasonable time and from time to time during the City's regular business hours and upon reasonable notice, the Bank or any of its agents or representatives to examine and make copies of and abstracts from the records and books of accounts of the City relating to the Systems, and to discuss the affairs, finances and accounts of the Systems with City officials;

(e) it will comply with and observe all other obligations, covenants, agreements and requirements set forth in the Ordinance, the Reimbursement Agreement Ordinance and in the Constitution of the State and in all statutes and regulations binding upon it relating to the Notes, the Letter of Credit, this Reimbursement Agreement and the Related Documents;

(f) it will maintain the Note Payment Fund with the Issuing and Paying Agent as required by the Ordinance;

(g) it will promptly notify the Bank in writing of (i) the occurrence of any material litigation or proceeding affecting the City and of any proceeding or threatened proceeding between the City and any Governmental Authority or any other Person which, in each such case, might substantially interfere with the normal operation of the Systems, or (ii) any amendment to the Act or any other governing instrument of the City, which would have a material adverse effect on the Systems or the Notes, or (iii) the name,

address, telephone number, fax number and contact person of any bank(s) which becomes a provider under the Parity Reimbursement Agreement;

(h) it will pay when due all of its obligations in connection with the authorization, issuance and delivery of the Notes, this Reimbursement Agreement, the Letter of Credit and the Related Documents;

(i) it will not enter into any contract, agreement or transaction, or incur any obligation which would have a material adverse effect on the City's ability to meet its obligations under this Reimbursement Agreement or any Related Document;

(j) it will not create, incur, assume or suffer to exist any pledge of, lien on or other security interest in the Security except as provided in the Related Documents, the Parity Note Ordinance and the Parity Reimbursement Agreement;

(k) reserved;

(l) it will at all times maintain rates and charges for the services furnished, provided and supplied by the Electric Utility System and Water and Wastewater System which shall comply with the provisions of the ordinances authorizing the issuance of the Priority Lien Obligations, be reasonable and non-discriminatory and produce Gross Revenues in each Fiscal Year from each of the Systems sufficient:

(i) to pay the respective Maintenance and Operating Expenses of the Systems;

(ii) to provide amounts required to establish, maintain or restore, as the case may be, a required balance in any reserve or contingency fund created for the payment and security of Separate Lien Obligations;

(iii) to produce combined Net Revenues of the Systems sufficient to pay the amounts required to be deposited in any reserve or contingency fund created for the payment and security of the Prior Lien Bonds, the Subordinate Lien Bonds, and other obligations or evidences of indebtedness issued or incurred that are payable only from and secured solely by a lien on and pledge of the combined Net Revenues of the Systems;

(iv) to produce combined Net Revenues of the Systems (after satisfaction of the amounts required to be paid in (ii) and (iii) above) equal to at least the sum of (A) 1.25 times the annual principal and interest requirements (or other similar payments) for the then outstanding Prior Lien Bonds and Separate Lien Obligations and (B) 1.10 times the total annual principal and interest requirements (or other similar payments) for the then outstanding Subordinate Lien Bonds and all other indebtedness payable only from and secured solely by a lien on and pledge of the Net Revenues of the Systems, either or both;

(v) (A) to pay all amounts owed to the Bank under this Agreement and to any provider of credit or liquidity support under the Parity Reimbursement

Agreement, as and when the same shall become due, and (B) to the extent the same are reasonably anticipated to be paid from Pledged Revenues, to pay the principal of and interest on the Notes and the Parity Notes, as and when the same shall become due; provided, that in no event shall the amount described in clause (B) above be less than an amount equal to the sum of:

(x) 1.10 times the product of (i) \$350,000,000 multiplied by (ii) the sum of (a) the average daily yield on 30-day tax-exempt commercial paper rated A-1/P-1 during the preceding twelve-month period ending on the last day of July of such year (as calculated by a Dealer and set forth in a written notice to the City and the Bank on or before August 31 of each year), plus (b) two percent (2%); and

(y) 1.10 times the product of (i) \$50,000,000 multiplied by (ii) the sum of (a) the average daily yield on 30-day taxable commercial paper rated A-1/P-1 during the preceding twelve-month period ending on the last day of July of such year (as calculated by a Dealer and set forth in a written notice to the City and the Bank on or before August 31 of each year), plus (b) two percent (2%); and

(vi) to pay any other legal debt or obligation of the Systems, either or both, as and when the same shall become due;

(m) it shall, in good faith and with due diligence, endeavor to sell a sufficient principal amount of the Bonds (or Notes) in order to have funds available, together with other moneys available therefore, to pay all amounts owed to the Bank;

(n) it will deliver to the Bank (i) as soon as available and in any event within ninety (90) days after the end of each fiscal year of the City, the approved budget of the City for the then current fiscal year (including therein detailed budget information relating to the Systems), together with a certificate from an Authorized Representative of the City certifying that (A) the rates and charges for the Systems set forth in such approved budget are sufficient to allow the City to comply with the provisions of Section 5.01(1) at all times during such fiscal year, and (B) containing the City's calculation of its compliance for the preceding fiscal year of the covenant set forth in Section 5.01(1) of this Reimbursement Agreement, (ii) as soon as available and in any event within two hundred and ten (210) days of the end of each fiscal year of the City, an audited financial statement of the City as of the end of such fiscal year and the related statement of changes in the funds and in fund balances for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all audited by an independent public accountant of nationally recognized standing, (iii) as soon as available and in any event within sixty (60) days after the end of each Calendar Quarter, unaudited financial statements of the Systems for such Calendar Quarter (which shall include an income statement, balance sheet and statement of cash flows), and (iv) any other information that the Bank may reasonably request from time to time;

(o) it will maintain and preserve all of its properties that are material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, it being understood that this paragraph relates only to the good working order and condition of such properties and shall not be construed as a covenant not to encumber or dispose of such properties by sale, lease, transfer or otherwise in the ordinary course of business or within the provisions of the ordinances authorizing the Priority Lien Obligations;

(p) it will perform and comply with each and every obligation, covenant and agreement required to be performed or observed by it in or pursuant to the Related Documents and the ordinances pursuant to which any Priority Lien Obligations have been issued, which provisions, as well as the related defined terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety. To the extent that any such incorporated provision permits any Person or Persons to waive compliance with such provision or requires that a document, opinion or other instrument or any event or condition be acceptable or satisfactory to any Person or Persons, for purposes of this Reimbursement Agreement, such provision shall be complied with only if it is waived by the Bank and such document, opinion or other instrument and such event or condition shall be acceptable or satisfactory only if it is acceptable or satisfactory to the Bank. No amendment to such obligations, covenants and agreements or defined terms made pursuant to any of the Related Documents shall be effective to amend such obligations, covenants and agreements and defined terms as incorporated by reference herein without the consent of the Bank; and

(q) it will not issue any Notes to refund Priority Lien Obligations.

(r) In the event that the City shall agree or covenant to maintain financial covenants, financial covenant levels or financial covenant testing periods pursuant to documentation entered into by the City with any Person or Persons (other than the Bank) that undertake to make loans or extend credit or liquidity to the City related to the Priority Lien Obligations, from time to time after the date hereof, the City shall (simultaneously with the execution of such documentation) notify the Bank of such covenants, covenant levels or covenant testing periods, and to the extent such covenants, covenant levels or covenant testing periods are determined by the Bank, in their sole discretion, by written notice to the City to be more restrictive than the covenants, covenant levels or covenant testing periods set forth in this Reimbursement Agreement, the City shall comply with the covenants contained in the new documentation for the benefit of the Bank under this Reimbursement Agreement, and the City and the Bank hereby agree that such covenants, together with the related definition of terms contained therein, are hereby incorporated by reference in this Reimbursement Agreement with the same effect as if each and every such covenant and definition were set forth herein in its entirety, and such more restrictive financial covenants, financial covenant levels or financial covenant testing periods shall replace and supersede the financial covenants, financial covenant levels or financial covenant testing periods contained herein. For purposes of clarification, the terms financial covenants, financial covenant levels, and financial covenant testing periods refer to covenants to maintain coverage ratios at certain levels prior to the

incurrence of additional debt, to maintain rates, to maintain certain liquidity levels and similar financial covenants and agreements to deliver financial information and other information within a specified term period. The terms financial covenants, financial covenant levels and financial covenant testing periods specifically excludes collateral posting requirements, reserve requirements, automatic termination events, termination events, additional termination events and pricing levels. Each and every amendment or waiver of such covenants or definitions made pursuant to such other documentation, or the release, termination or other discharge of such other documentation, shall be not effective to amend, release, terminate or discharge (as applicable) such covenants and definitions as incorporated by reference herein without the written consent of the Bank.

(s) The City shall at all times maintain the ability to issue Bonds (as defined in the Ordinance) in an amount at least equal to the sum of (i) the aggregate principal amount of the Notes plus (ii) the aggregate amount of accrued interest to maturity on all Notes, plus (iii) any other obligations owing to any credit enhancer or liquidity provider on the Notes.

(t) The City shall use its best efforts to cause the Dealers and the Issuing and Paying Agent to market, issue, and deliver, as applicable, Notes at the then current market rate, up to the Maximum Rate. If a Dealer fails to sell the Notes for sixty (60) consecutive days, then the City, at the written request of the Bank and with mutual agreement of the City, shall replace the applicable Dealer with a Dealer reasonably satisfactory to the Bank.

ARTICLE VI

SECURITY

Section 6.01. Security.

(a) The City hereby pledges and grants to the Bank, on an equal and ratable basis with the Holders of the Notes and as collateral security for the payment by the City, when due, of all amounts now or at any time hereafter owing to the Bank under this Reimbursement Agreement, the due and punctual observance and performance of all other obligations of the City under this Reimbursement Agreement, and the due and punctual observance and performance of the City's obligations to the Holders of the Notes arising under the Notes, a lien on and security interest in the following:

(i) the proceeds from (A) the sale of Bonds issued to refund outstanding Notes and (B) the sale of Notes issued pursuant to the Ordinance to refund outstanding Notes;

(ii) the amounts held in the Note Payment Fund until the amounts deposited therein are used for authorized purposes; provided, however, that amounts in the Note Payment Fund attributable to and derived from Drawings on the Letter of Credit shall be used only to pay the principal of or interest on maturing Notes; and

(iii) the amounts remaining on deposit in the Note Construction Account after the payment of all Projects Costs.

(b) In addition, the City hereby pledges and grants to the Bank, on an equal and ratable basis with the Holders of the Notes and the holders of the Parity Lien Obligations as collateral security for the payment of the City, when due, of all amounts now or at any time hereafter owing to the Bank under this Reimbursement Agreement, the due and punctual observance and performance of all other obligations of the City under this Reimbursement Agreement, and the due and punctual observance and performance of the City's obligations to the Holders of the Notes arising under the Notes subject only to the provisions of the Ordinance permitting the application thereof for purposes and on the terms and conditions set forth therein, a lien on and security interest in the Pledged Revenues; provided, however, that the lien on and security interest in the Pledged Revenues to secure payment of the Notes and other amounts due under this Reimbursement Agreement shall be subordinate only to the lien and pledge of the Pledged Revenues securing the payment of Priority Lien Obligations. The liens and security interests described in Section 6.01(a) and (b) are referred to collectively as the "Security."

(c) The Bank acknowledges that the pecuniary obligations of the City under this Reimbursement Agreement and the Fec Agreement in the nature of fees due hereunder, amounts due for Drawings made under the Letter of Credit or any other amounts owed to the Bank hereunder are secured by and payable solely from the Security.

ARTICLE VII

EVENTS OF DEFAULT; REMEDIES

Section 7.01. Events of Default and Termination.

(a) The following events shall be considered "Events of Default" for purposes of this Reimbursement Agreement:

(i) the City shall fail to pay when due any amount due and payable hereunder or pursuant to the Fee Agreement; or

(ii) any representation, warranty, certification or statement made by the City in this Reimbursement Agreement or in any Related Document or in any certificate, financial statement or other document delivered pursuant to this Reimbursement Agreement or any Related Document shall (in any such case) prove to have been incorrect or untrue in any material respect when made or deemed to have been made; or

(iii) the City shall default in the due performance or observance of (A) any covenant set forth in Section 5.01 hereof or (B) any other term, covenant (other than a covenant set forth in Section 5.01) or agreement contained in this Reimbursement Agreement and such default in the due performance or

observance of any such other term, covenant or agreement shall remain unremedied for a period of sixty (60) days after the Bank shall have given the City written notice of such default; or

(iv) this Reimbursement Agreement or any provision hereof at any time after its execution and delivery, or any Note, shall, for any reason, cease to be valid and binding on the City or in full force and effect or shall be declared to be null and void, or the validity or enforceability of this Reimbursement Agreement or any Notes shall be contested by the City or by any Governmental Authority having jurisdiction over the City, or the City shall deny that it has any or further liability or obligation under this Reimbursement Agreement or any Notes; or

(v) the City shall admit in writing its inability to pay its debts as they mature or shall declare a moratorium on the payment of its debts or apply for, consent to or acquiesce in the appointment of a trustee or receiver for itself or any part of its property, or shall take any action to authorize or effect any of the foregoing; or in the absence of any such application, consent or acquiescence, a trustee or receiver shall be appointed for it or for a substantial part of its property or revenues and shall not be discharged within a period of thirty (30) days; or any bankruptcy, reorganization, debt arrangement or other proceeding under any bankruptcy or insolvency law or any dissolution or liquidation proceeding shall be instituted by or against the City (or any action shall be taken to authorize or effect the institution by it of any of the foregoing) and if instituted against it, shall be consented to or acquiesced in by it, or shall not be dismissed within a period of thirty (30) days; or

(vi) there shall be commenced against the City any case, proceeding or action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of the Systems, which results in the entry of an order for relief which shall not have been vacated, discharged, stayed or bonded pending appeal within thirty (30) days from the entry thereof; or

(vii) any lien, pledge or security interest created to secure any amount due under this Reimbursement Agreement should fail to be fully enforceable with the same priority as and when such lien, pledge or security interest was first acquired; or

(viii) an "Event of Default" shall have occurred under the Ordinance, the Reimbursement Agreement, any of the Related Documents, the Parity Reimbursement Agreement or the Parity Ordinance as "Event of Default" is defined in such documents; or

(ix) a final, nonappealable judgment or order for the payment of money in excess of \$15,000,000 shall be rendered against the City and such judgment or order shall continue unsatisfied and unstayed for a period of sixty (60) days; or

(x) the City shall fail to pay when due any non-debt obligation in excess of \$5,000,000, which is payable from the City's General Fund or the revenues of the Systems, except for the City's failure to pay any such non-debt obligation where the payment of such non-debt obligation is being contested in good faith by the City and defended in an appropriate proceeding; or

(xi) the City shall (a) fail to pay any indebtedness of the City for borrowed money, or any interest or premium thereon, when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such indebtedness, or (b) fail to perform or observe any term, covenant or condition on its part to be performed or observed under any ordinance, indenture, agreement or other instrument relating to any such indebtedness when required to be performed or observed, and such failure shall not be waived and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such failure to perform or observe is to accelerate, or permit the acceleration of, with the giving of notice if required, the maturity of such indebtedness; or any such indebtedness shall be declared to be due and payable or be required to be prepaid (other than by a regularly scheduled required prepayment), prior to the stated maturity thereof; or

(xii) the ratings assigned to any of the City's Parity Electric Utility Obligations, Parity Water/Wastewater Obligations, or the Priority Lien Obligations by S&P, Moody's or Fitch shall be lower than BBB-/Baa3/BBB-, respectively; or

(xiii) the ratings assigned to any of the City's Parity Electric Utility Obligations, or Parity Water/Wastewater Obligations, or Priority Lien Obligations by S&P, Moody's or Fitch shall be withdrawn or suspended for reasons other than debt maturity, redemption or defeasance, or non-provision of information; or

(xiv) a court of competent jurisdiction has found any of the City's Parity Electric Utility Obligations, Parity Water/Wastewater Obligations or Priority Lien Obligations to have been issued illegally or in violation of the additional debt test in the related ordinance.

(b) If an Event of Default shall have occurred and be continuing, then, and in every such event, the Bank, in its sole discretion, may immediately declare the City in default of its obligations under this Reimbursement Agreement and provide written notice (substantially in the form attached hereto as Exhibit F) to the City, the Dealer, the Issuing and Paying Agent and the provider of liquidity or credit support under the Parity Reimbursement Agreement that the Commitment is terminated and that the Letter of Credit will terminate upon payment at maturity of the Notes that are outstanding as of the effective date of such notice and instructing the Issuing and Paying Agent to cease issuing Notes (a "No-Issuance Notice"). Any notice given pursuant to this Section and received by the Dealer and the Issuing and Paying Agent as of 8:30 a.m. on any Business Day shall be effective as of such Business Day and any such notice received by the

Dealers and the Issuing and Paying Agent after 8:30 a.m. on any Business Day shall be effective on the immediately succeeding Business Day. As of the effective date of such notice, the Issuing and Paying Agent shall cease to issue Notes and shall provide written notice to the Bank, the Dealer and the City listing the maturity dates of all outstanding Notes. Upon payment in full of all such Notes at maturity, the Letter of Credit shall terminate and the Issuing and Paying Agent shall promptly surrender the Letter of Credit to the Bank for cancellation.

Section 7.02. Remedies. Upon the occurrence of an Event of Default and the giving of notice by the Bank as provided in Section 7.01(b) or upon the receipt by the City or the Bank of notice from a Parity Bank that an Event of Default has occurred under the Parity Reimbursement Agreement, the Bank may, in its sole discretion:

(a) declare the outstanding principal balance of all amounts owing under this Reimbursement Agreement together with interest accrued thereon and remaining unpaid, immediately due and payable; and

(b) either personally or by attorney or agent without bringing any action or proceeding, or by a receiver to be appointed by a court in any appropriate action or proceeding, take whatever action at law or in equity may appear necessary or desirable to collect the amounts due and payable under this Reimbursement Agreement or to enforce performance or observance of any obligation, agreement or covenant of the City under this Reimbursement Agreement, whether for specific performance of any agreement or covenant of the City or in aid of the execution of any power granted to Bank in this Reimbursement Agreement.

Section 7.03. Remedies Cumulative. To the extent permitted by, and subject to the mandatory requirements of, applicable law, each and every right, power and remedy herein specifically given to the Bank in this Reimbursement Agreement and in the Related Documents, shall be cumulative, concurrent and nonexclusive and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy (whether specifically herein given or otherwise existing) may be exercised from time to time and as often and in such order as may be deemed expedient by the Bank, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy.

Section 7.04. Waivers of Omissions. No delay or omission by the Bank in the exercise of any right, remedy or power or in the pursuit of any remedy shall impair any such right, remedy or power or be construed to be a waiver of any default on the part of the Bank or to be acquiescence therein. No express or implied waiver by Bank of any Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default.

Section 7.05. Continuance of Proceedings. In case the Bank shall proceed to invoke any right, remedy or recourse permitted hereunder or under the Related Documents and shall thereafter elect to discontinue or abandon the same for any reason, the Bank shall have the unqualified right so to do and, in such event, the City and the Bank shall be restored to their

former positions with respect to this Reimbursement Agreement, the Related Documents and otherwise, and the rights, remedies, recourse and powers of the Bank hereunder shall continue as if the same had never been invoked.

Section 7.06. Injunctive Relief. The City recognizes that, in the event the City fails to perform, observe or discharge any of its obligations or liabilities under this Reimbursement Agreement, any remedy of law may prove to be inadequate relief to the Bank; therefore, the City agrees that the Bank, if the Bank so requests, shall be entitled to temporary and permanent injunctive relief in any such case to the extent allowed by law.

ARTICLE VIII

NATURE OF OBLIGATIONS; INDEMNIFICATION

Section 8.01. Obligations Absolute. The obligations of the City under this Reimbursement Agreement shall be absolute, unconditional and irrevocable and shall be paid or performed strictly in accordance with the terms of this Reimbursement Agreement under all circumstances whatsoever, including, without limitation, the following circumstances:

- (a) any lack of validity or enforceability of this Reimbursement Agreement, the Letter of Credit or any of the Related Documents;
- (b) any amendment or waiver of, or any consent to departure from any provision of, this Reimbursement Agreement, the Notes, the Letter of Credit or any of the Related Documents;
- (c) the existence of any claim, set-off, defense or other rights which the City may have at any time against any holder, any beneficiary or any transferee of the Letter of Credit (or any Persons for whom any such beneficiary or any such transferee may be acting), the Bank or any other Person, whether in connection with this Reimbursement Agreement, the Letter of Credit, the Related Documents, the transactions contemplated hereby or any unrelated transaction;
- (d) any statement, certificate, draft, notice or any other document presented under the Letter of Credit proves to have been forged, fraudulent, insufficient or invalid in any respect or any statement therein proves to have been untrue or inaccurate in any respect whatsoever;
- (e) payment by the Bank under the Letter of Credit against presentation of a draft or certificate or both which does not comply with the terms of the Letter of Credit unless such payment in the circumstances constituted negligence or willful misconduct by the Bank; or
- (f) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, unless payment by the Bank under the Letter of Credit in the circumstances constituted negligence or willful misconduct by the Bank.

Section 8.02. Continuing Obligation. This Reimbursement Agreement is a continuing obligation, shall survive the expiration of the Letter of Credit and shall (a) be binding upon the City, its successors and assigns, and (b) inure to the benefit of and be enforceable by the Bank and its successors, transferees and assigns; provided, that the City may not, except as otherwise expressly provided herein, assign all or any part of this Reimbursement Agreement without the prior written consent of the Bank.

Section 8.03. Liability of the Bank. To the extent permitted by the laws of the State of Texas, the City assumes all risks of the acts or omissions of the Issuing and Paying Agent and any transferee of the Letter of Credit with respect to its use of the Letter of Credit. Neither the Bank nor any of its respective officers or directors nor any of the Indemnitees referred to in Section 8.05 hereof shall be liable or responsible for:

(a) the use which may be made of the Letter of Credit or for any acts or omissions of the Issuing and Paying Agent and any transferee in connection therewith;

(b) the validity, sufficiency or genuineness of documents, or of any endorsement(s) thereon, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged;

(c) any payment by the Bank against presentation of documents which do not comply with the terms of the Letter of Credit, including failure of any documents to bear any reference or adequate reference to the Letter of Credit;

(d) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign the Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason;

(e) the failure of the Issuing and Paying Agent to comply fully with conditions required in order to draw upon the Letter of Credit;

(f) any loss or delay in the transmission or delivery of any document or draft required in order to make a Drawing under the Letter of Credit;

(g) any payment of a Drawing under the Letter of Credit by inter-bank telex notwithstanding that the manually executed draft(s) to be delivered to the Bank following such Drawing do not comply on their face with the terms of the Letter of Credit or failure is made to deliver such manually executed draft(s), in whole or in part, to the Bank; or

(h) any other circumstances whatsoever in making or failing to make payment under the Letter of Credit;

except only that the City shall have a claim against the Bank, and the Bank shall be liable to the City, to the extent and only to the extent of any direct, as opposed to consequential, damages suffered by the City determined in a final, non-appealable judgment by a court of competent jurisdiction to have resulted directly from: (A) the willful misconduct or negligence of the Bank,

as applicable, in connection with clauses (b), (c), (d), (f), (g) and (h) above; or (B) the willful or negligent failure of the Bank to pay under the Letter of Credit after the presentation to it by the Issuing and Paying Agent (or a successor issuing and paying agent under the Issuing and Paying Agency Agreement to whom the Letter of Credit has been transferred in accordance with its terms) of a drawing strictly complying with the terms and conditions of the Letter of Credit. In furtherance and not in limitation of the foregoing, the Bank may accept documents that appear on their face to be in order, without responsibility for further investigation. The Bank shall not be liable in any way for any failure on its part to honor any draft under the Letter of Credit as a result of any act or omission of any Governmental Authority or any other cause beyond the control of the Bank.

Section 8.04. No Implied Covenants. The duties and obligations of the Bank with respect to Drawings under the Letter of Credit shall be determined solely by the express provisions of, or those incorporated by reference into, the Letter of Credit, and no implied covenants or obligations relating to the Letter of Credit or the making of any payment thereunder shall be read into this Agreement or the Letter of Credit against the Bank.

Section 8.05. Indemnity. To the extent permitted by the laws of the State of Texas, the City hereby indemnifies and holds harmless the Bank, each Participant and each of their respective officers, directors, shareholders, employees, attorneys, agents and servants (the "Indemnitees") from and against any and all claims, damages, losses, liabilities, reasonable costs or out-of-pocket expenses whatsoever, including reasonable attorney's fees and court costs of whatever kind and nature, ordinary, extraordinary, foreseen and unforeseen, which the Indemnitees may incur (or which may be claimed against the Indemnitees by any Person or entity whatsoever) by reason of or in connection with:

- (a) the execution and delivery or transfer of, or payment or failure to pay under, the Letter of Credit;
- (b) the offering, issuance, sale or delivery of the Notes;
- (c) any inaccuracy of any representation or any breach of any warranty of the City set forth in this Reimbursement Agreement or the Related Documents;
- (d) any failure by the City for any reason whatsoever to perform punctually and discharge all of its agreements, covenants, duties and obligations under this Reimbursement Agreement and the Related Documents;
- (e) the payment of a drawing under the Letter of Credit notwithstanding the noncompliance, non-delivery or other improper presentation, of the manually executed draft(s) and certificate(s); or
- (f) any circumstance, happening, event or condition resulting in or from an Event of Default;

provided, however, that the City shall not be required to indemnify the Indemnitees for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or negligence of the Indemnitees.

If any action, suit or proceeding is brought against the Indemnitees, the City, to the extent permitted by the laws of the State of Texas, and in the manner directed by the Bank, will resist and defend such action, suit or proceeding, or cause the same to be resisted and defended by counsel designated by the City, which counsel shall be reasonably satisfactory to the Person or Persons indemnified or intended to be indemnified. The obligations of the City under this Section shall survive the execution and delivery of this Reimbursement Agreement, the Letter of Credit and the Related Documents and the termination or expiration of this Reimbursement Agreement, the Letter of Credit and the Related Documents and shall be binding on the City and inure to the benefit of the Bank. Nothing in this Section is intended to limit any obligations of the City contained in this Reimbursement Agreement.

Section 8.06. Facsimile Documents. At the request of the City, the Letter of Credit provides that demands for payment thereunder may be presented to the Bank by, among other methods, facsimile. The City acknowledges and assumes all risks relating to the use of such facsimile demands for payment and agrees that its obligations under this Reimbursement Agreement and the Related Documents shall remain absolute, unconditional and irrevocable as provided in Section 8.01 above if the Bank honors such facsimile demands for payment.

ARTICLE IX

TRANSFER, REDUCTION OR EXTENSION OF LETTER OF CREDIT

Section 9.01. Transfer, Reduction and Reinstatement. The Letter of Credit may be transferred, automatically reduced and reinstated, and increased and decreased in accordance with the provisions set forth therein.

Section 9.02. Extension.

(a) **Letter of Credit.** The City may, at any time prior to the Letter of Credit Expiration Date, submit to the Bank, a request for an extension of the Letter of Credit Expiration Date in the form of Exhibit D requesting that the Bank extend the Letter of Credit Expiration Date for an additional period specified in such request. If the City shall make such request, the Bank shall, no later than thirty (30) days after receipt of such written request, notify the City and the Issuing and Paying Agent in writing of their consent to such request (which consent may be given or withheld in the sole discretion of the Bank) and the conditions of such consent (including conditions relating to legal documentation, the Letter of Credit Amount, the term of the extension and pricing). If the Bank shall not so notify the City, the Bank shall be deemed not to have consented to such request and the Letter of Credit Expiration Date shall remain unchanged. If the Bank consents to such request, the extended Letter of Credit Expiration Date shall take effect on such date as may be agreed to by the City and the Bank, and a Notice of Extension of Stated Expiration Date in the form of Annex G to the Letter of Credit will be delivered to the Issuing and Paying Agent. The terms of this Section 9.02(a) shall apply to additional extensions of the Letter of Credit Expiration Date if the Letter of Credit Expiration Date is extended at any time upon request of the City in accordance

herewith by the Bank. All extensions shall be at the sole and absolute discretion of the Bank.

(b) **Commitment.** The Commitment Expiration Date may be extended by the Bank upon the written request of the City in the form of Exhibit D appropriately completed given to the Bank no more than 90 days prior to the then scheduled Commitment Expiration Date. Within 45 days of receipt of a request for extension, the Bank shall either notify the City that the Commitment Expiration Date is extended, pursuant to the Notice of Extension in Exhibit E, or notify the City that the Commitment Expiration Date will not be extended. Failure of the Bank to so respond to any such request for extension shall constitute the Bank's denial of such request. All extensions shall be at the sole and absolute discretion of the Bank.

ARTICLE X

MISCELLANEOUS

Section 10.01. Right of Setoff. Upon the occurrence of an Event of Default, the Bank may, at any time and from time to time, without notice to the City or any other person (any such notice being expressly waived), set off and appropriate and apply, against and on account of, any obligations and liabilities of the City to the Bank arising under or connected with this Reimbursement Agreement and the Related Documents, without regard to whether or not the Bank shall have made any demand therefor, and although such obligations and liabilities may be contingent or unmatured, any and all deposits (general or special, including but not limited to indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other indebtedness at any time held or owing by the Bank to or for the credit or the account of the City.

Section 10.02. Amendments and Waivers. No amendment or waiver of any provision of this Reimbursement Agreement nor consent to any departure by the City from any such provision shall in any event be effective unless the same shall be in writing and signed by the Bank. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. In the event any agreement contained in this Reimbursement Agreement should be breached by the City and thereafter waived by the Bank, such waiver shall be limited to the particular breach so waived for the specific period set out in such waiver and such waiver shall not constitute a waiver of such breach for any other period and shall not waive any other or similar breach hereunder.

Section 10.03. No Waiver; Remedies. No failure on the part of the Bank to exercise, and no delay in exercising, any right under this Reimbursement Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any right under this Reimbursement Agreement preclude any other further exercise of such right or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

Section 10.04. Participations. The City acknowledges and agrees that the Bank may participate portions of its obligations under the Letter of Credit and the obligations of the City under this Reimbursement Agreement and any other Related Documents (collectively, the "Participated Obligations") to other financial institutions and waives any notice of such participations. The City further acknowledges and agrees that upon any such participation the Participants will become owners of a pro rata portion of the Participated Obligations and the City waives any right of setoff it may at any time have against the Bank or any Participant with regard to the Participated Obligations. The Bank shall notify the City of the identity of each Participant. In the event of any such grant by the Bank of a participating interest to a Participant, the Bank shall remain responsible for the performance of its obligations hereunder and under the Letter of Credit and the City and Issuing and Paying Agent shall continue to deal with the Bank in the manner provided herein. The City agrees, to the extent provided in the participation agreement, that a Participant shall be entitled to the benefits of Section 2.06 with respect to its participating interest.

Section 10.05. Issuing Branch of the Bank. The Bank may, at its sole option and its sole expense and in accordance with the requirements of this Section 10.05, transfer such Letter of Credit obligation on its books to any other United States branch, agency or office of the Bank authorized to issue such Letter of Credit. No amendments to this Reimbursement Agreement or any of the Related Documents shall be required to effect such transfer. All cost incurred as a result of such transfer, including counsel fees, shall be paid by the Bank.

Section 10.06. Complete and Controlling Agreement. This Reimbursement Agreement and the other Related Documents completely set forth the agreements between the Bank and the City and fully supersede all prior agreements, both written and oral, between the Bank and the City relating to the issuance of the Letter of Credit and all matters set forth herein and in the Related Documents.

Section 10.07. Amendment of Related Documents. The City shall not amend, supplement or terminate any of the Related Documents without the written consent of the Bank.

Section 10.08. Fiscal and Other Agents. The City shall not appoint or provide for the payment of any fiscal, paying or other agents or trustees in addition to those appointed by the Ordinance in connection with the Notes without the written consent of the Bank; provided, that such consent will not be required from the Bank that is in default of its obligations under this Reimbursement Agreement.

Section 10.09. Waiver of Sovereign Immunity. To the extent authorized by Texas Government Code Section 1371.059(c), the City hereby waives sovereign immunity from suit and liability for the purposes of adjudicating a claim to enforce this Reimbursement Agreement or the Fee Agreement or for damages for breach of this Reimbursement Agreement or the Fee Agreement.

Section 10.10. Notices. All notices, requests and other communications to any party hereunder shall be in writing (including bank wires, telecopy or similar writing and excluding electronic mail) and shall be given to such party, addressed to it, at its address, telecopy number set forth below or such other address, telecopy number as such party may hereafter specify for

the purpose by notice to each other party. Each such notice, request or communication shall be effective (i) if given by telecopy, when such telecopy is transmitted to the telecopy number specified below and the appropriate answerback is received, (ii) if given by mail, upon deposit in the mails with first-class postage prepaid, addressed as aforesaid or (iii) if given by any other means, when delivered at the address specified below:

<u>Party</u>	<u>Address</u>
City:	City of Austin, Texas 700 Lavaca, Suite 940 Austin, Texas 78701 Attn: Treasurer Telecopy: (512) 974-7882
The Bank:	JPMorgan Chase Bank, National Association 383 Madison Avenue, 8th Floor Mail Code: NY1-M076 New York, New York 10179 Attention: David M. Bayer Tel: (212) 270-4186
Issuing and Paying Agent:	U.S. Bank Trust National Association 100 Wall Street Suite 1600 New York, New York 10005 Attn: Patrick J. Healy Telecopy: (212) 361-2458
Dealer:	Goldman, Sachs & Co. 85 Broad Street 24th Floor New York, New York 10004 Attn: Money Market Municipal Department Telecopy: (212) 357-8350
S&P:	Standard & Poor's 55 Water Street, 38th Floor New York, NY 10041 Attn: Municipal Structured Surveillance email: pubfin_structured@standardandpoors.com

Fitch:

Extension notices:

MSF.Surveillance@fitchratings.com.

Mailing address for notices of any type, including amendments, extensions redemptions should be sent to:

Fitch Ratings, One State Street Plaza, New York,
New York 10004, Attention:
Municipal Structured Finance

Moody's:

MSPG Surveillance

Public Finance -23rd Floor

7 World Trade Center

250 Greenwich Street

New York, NY 10007

MSPGSurveillance@moodys.com

212-553-4066

and, if addressed to the Bank, with copies of such notice(s) addressed to it at the address(es) for notices to the Bank on the signature pages hereto.

Section 10.11. Severability. Any provision of this Reimbursement Agreement that is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

Section 10.12. Governing Law. **THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS; PROVIDED, THAT THE OBLIGATIONS OF THE BANK SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

Section 10.13. Successors and Assigns.

(a) The provisions of this Reimbursement Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided, that the City may not assign or otherwise transfer any of its rights under this Reimbursement Agreement, or sell or otherwise dispose of the Systems (either or both), without the prior written consent of the Bank; provided, further, that the creation by the City of an independent board for the governance of the Electric Light and Power System that does not provide for transfer to such board of (i) the ability to set rates and charges for the Electric Light and Power System, (ii) the ability to issue debt secured by the revenues of the Electric Light and Power System or (iii) the power of eminent domain shall not be considered a sale or disposition of the Electric Light and Power System. The City shall provide notice to the Bank prior to the creation by the City of an independent

board to govern the Electric Light and Power System and shall provide to the Bank such information in connection therewith as the Bank may reasonably request.

(b) The Bank may at any time assign all or any portion of its rights under this Reimbursement Agreement to a Federal Reserve Bank. No such assignment shall release the assigning Bank from its obligations hereunder.

Section 10.14. Counterparts. This Reimbursement Agreement may be executed in counterparts and by the different parties hereto, each of which shall be an original, but taken together shall constitute one instrument. This Agreement may be delivered by the exchange of signed signature pages by facsimile signature or by e-mail with a pdf copy or other replicating image attached, and any printed or copied version of any signature pages delivered shall have the same force and effect as an originally signed version of such signature page.

Section 10.15. Headings. Section headings in this Reimbursement Agreement are included herein for convenience of reference only and shall not constitute a part of this Reimbursement Agreement for any other purpose.

Section 10.16. Waiver of Jury Trial. The City and the Bank hereby irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or relating to any Related Document or the transactions contemplated thereby.

Section 10.17. Notice to Rating Agencies. The City shall give notice to S&P, Moody's and Fitch of any extension or amendment to this Agreement or termination of the Letter of Credit prior to the Stated Expiration Date (as defined in the Letter of Credit) pursuant to Section 10.10 hereof.

Section 10.18. Patriot Act. The Bank hereby notifies the City that, pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107 56 (signed into law October 26, 2001)) (the "Patriot Act"), it is required to obtain, verify and record information that identifies the City, which information includes the name and address of the City and other information that will allow the Bank to identify the City in accordance with the Patriot Act, and the City hereby agrees to take any action necessary to enable the Bank to comply with the requirements of the Patriot Act. The City shall comply with all applicable Bank Secrecy Act laws and regulations, as amended.

IN WITNESS WHEREOF, the parties hereto have caused this Letter of Credit Reimbursement Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

CITY OF AUSTIN

By: _____
Chief Financial Officer

ATTEST:

City Clerk

APPROVED:

City Attorney

[Signatures continued on following page]

[Signature page to Reimbursement Agreement]

— JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION

By: _____
Name: David M. Bayer
Title: Executive Director

Notice and Payment Information:

Payment Instructions:
JP Morgan Chase Bank
Loan & Agency Services
1111 Fannin, 10th Floor
Houston, Texas 77002
Tel: (713) 750-2503
Fax: (713) 750-2782

Notices:

For purposes of Notices of Bank Purchase, billing and payment:
JP Morgan Chase Bank
Loan & Agency Services
1111 Fannin, 10th Floor
Houston, Texas 77002
Tel: (713) 750-2503
Fax: (713) 750-2782

For purposes of Notices, reimbursements and payments relating to the Letter of Credit:

JPMorgan Chase Bank, N.A.
Standby Letter of Credit Unit
300 South Riverside Plaza
Mail Code: IL-1-0236
Chicago, IL 60606-0236
Attention: Standby Service Team
Tel: (312) 954-1922
Fax: (312) 954-1963

For all other purposes:

JPMorgan Chase Bank, National Association
383 Madison Avenue, 8th Floor
Mail Code: NY1-M076
New York, New York 10179
Attention: David M. Bayer
Tel: (212) 270-4186

EXHIBIT A

FORM OF REQUEST FOR ADJUSTMENT
OF STATED AMOUNT

[DATE]

JPMorgan Chase Bank, National Association
c/o J.P. Morgan Services, Inc.
500 Stanton Christiana Road
Newark, Delaware 19713-2107
Attn: Letter of Credit Department

\$ _____
City of Austin Combined Utility Systems
Taxable Commercial Paper Notes

Ladies and Gentlemen:

This is a Request for Adjustment identified in Section 2.02(a) of the Letter of Credit Reimbursement Agreement dated as of June 1, 2011 (the "Reimbursement Agreement") by and between the City of Austin, Texas (the "City") and JPMorgan Chase Bank, National Association (the "Bank"). Capitalized terms used herein and not defined shall have the meaning assigned in the Reimbursement Agreement.

The Bank is hereby directed to adjust the Stated Amount of the Letter of Credit relating to the above-referenced Commercial Paper Notes by completing a Notice of Adjustment in the Stated Amount in the form of Exhibit F to the Letter of Credit (a copy of which is attached hereto) and delivering the same to the Issuing and Paying Agent as described in paragraph 4 of the Letter of Credit. Please be informed of the following:

(a) The amount of the requested [increase-or-decrease] is \$ _____, of which \$ _____ is with respect to the Principal Portion (as defined in the Letter of Credit) and \$ _____ is with respect to the Interest Portion (as defined in the Letter of Credit).

(b) Once so [increased-or-decreased], the Stated Amount, without taking into account reductions in the Stated Amount subject to reinstatement, shall equal \$ _____, of which \$ _____ will be available to pay principal of Notes at maturity and \$ _____ will be available to pay interest on Notes at maturity.

(c) The Stated Amount Adjustment Date for which such adjustment is requested is [DATE] which is at least 10 Business Days after the date the Bank receives this Request for Adjustment and is prior to the Commitment Expiration Date.

(d) The City hereby represents and warrants that:

(i) all representations and warranties of the City contained in Article IV of the Reimbursement Agreement shall be true and correct on the Stated Amount Adjustment Date identified in paragraph (c) above;

(ii) this Request for Adjustment has been duly authorized and validly executed by a duly authorized representative of the City; [and]

(iii) no Default or Event of Default has occurred and is continuing and no default or Event of Default will occur as a result of the adjustment in the Stated Amount hereby requested; [and]

(iv) the rating on the Subordinate Lien Bonds is not lower than Baa2 by Moody's and BBB by S&P and Fitch.]

[(e) The amount of the total increase in the Stated Amount requested hereby and identified in paragraph (a) above does not exceed the Unutilized Commitment.]

Please have a Notice of Adjustment in the Stated Amount executed and delivered by the Bank, in the form of Exhibit F to the Letter of Credit, to the Issuing and Paying Agent as provided in Section 2.02 of the Reimbursement Agreement on the Stated Amount Adjustment Date identified in paragraph (c) above.

Sincerely,

CITY OF AUSTIN, TEXAS

By: _____

Name: _____

Title: _____

EXHIBIT B
FORM OF F&J OPINION

EXHIBIT C
FORM OF BANK COUNSEL'S OPINION

EXHIBIT D

FORM REQUEST FOR EXTENSION

[Date]

JPMorgan Chase Bank, National Association
60 Wall Street
33rd Floor
New York, New York 10620
Attn: David M. Bayer, Executive Director

Re: Request for Extension

Ladies and Gentlemen:

Reference is hereby made to that certain Letter of Credit Reimbursement Agreement, dated as of June 1, 2011 (the "Agreement"), between the City of Austin, Texas (the "City") and JPMorgan Chase Bank, National Association ("the Bank"). All capitalized terms contained herein which are not specifically defined shall be deemed to have the definition set forth in the Agreement. The City hereby requests that [COMPLETE AS APPROPRIATE] the Commitment Expiration Date be extended to _____ -- the Expiration Date of the Letter of Credit be extended to [DATE]. Pursuant to the Agreement, we have enclosed along with this request the following information:

1. The nature of any and all Events of Default and all conditions, events and acts which with notice or lapse of time or both would become an Event of Default; and
2. Any other pertinent information previously requested by the Bank.

The Bank is requested to notify the City of its decision with respect to this request for extension within [COMPLETE AS APPROPRIATE] 30 days of the date of receipt hereof--45 days of the date hereof. If the Bank fails to notify the City of its decision, the Bank shall be deemed to have denied such request.

Very truly yours,

CITY OF AUSTIN, TEXAS

By: _____
Name: _____
Title: _____

EXHIBIT E

COMMITMENT EXPIRATION DATE EXTENSION NOTICE

City of Austin, Texas
Combined Utility Systems
Taxable Commercial Paper Notes,

Pursuant to Section 9.02(b) of the Letter of Credit Reimbursement Agreement dated as of June 1, 2011 (the "Agreement"; capitalized terms used herein and not defined shall have the meaning assigned in the Agreement) between the City of Austin, Texas (the "City") and JPMorgan Chase Bank, National Association, ("the Bank"), relating to the above referenced Notes, the City has requested the Bank extend the Commitment Expiration Date which is currently _____. Please be advised that:

[COMPLETE AS APPROPRIATE]

(1) At the request and for the account of the City, the Bank hereby extends the Commitment Expiration Date to _____. [INCLUDE ADDITIONAL TERMS IF APPLICABLE].

(2) Except as specifically provided in paragraph (1) above, all of the terms and conditions of the Agreement remain unchanged and in full force and effect.

(3) This Commitment Expiration Date Extension Notice is an integral part of the Agreement.

[OR]

The Bank hereby elects not to extend the Commitment Expiration Date.

This Commitment Expiration Date Extension Notice maybe executed in one or more counterparts which together shall constitute a single instrument.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned has executed and delivered this Commitment Expiration Date Extension Notice as of the ____ day of _____.

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

EXHIBIT F

NO-ISSUANCE NOTICE

U.S. Bank Trust National Association
100 Wall Street
Suite 1600
New York, New York 10005

Attention: _____

The undersigned, a duly authorized signatory of JP Morgan Chase Bank, National Association, as Bank, under that certain Letter of Credit Reimbursement Agreement dated as of June 1, 2011 (the "Reimbursement Agreement"); capitalized terms used herein and not defined shall have the meaning assigned in the Reimbursement Agreement) between the City of Austin, Texas (the "City") and JPMorgan Chase Bank, National Association, hereby certify to _____ (the "Issuing and Paying Agent"), with reference to Irrevocable Letter of Credit No. _____ (the "Letter of Credit," the terms defined therein and not otherwise defined herein being used herein as therein defined) issued by the Bank in favor of the Issuing and Paying Agent, as follows:

1. You are hereby notified that, in accordance with the terms of the Reimbursement Agreement, an Event of Default (as defined in the Reimbursement Agreement) has occurred and is continuing.

2. Subject to the following sentence, you are instructed to cease issuing Notes, as provided in Section 7.01(b) of the Reimbursement Agreement, unless and until we rescind this No-Issuance Notice. If you receive this No-Issuance Notice after 9:00 A.M., Chicago time, on a Business Day you shall cease issuing Notes on the next Business Day.

3. This No-Issuance Notice shall not affect the obligation of the Bank to honor demands for payment under the Letter of Credit with respect to Notes authenticated prior to your receipt of this No-Issuance Notice (or, subject to paragraph 2 above, on the same Business Day that you receive this No-Issuance Notice), and you shall continue to have the right to draw under the Letter of Credit to pay the principal of and accrued interest on maturing Notes authenticated prior to your receipt of this No-Issuance Notice (or, subject to paragraph 2 above, authenticated on the same Business Day that you receive this No-Issuance Notice).

IN WITNESS WHEREOF, the undersigned have executed and delivered this Notice as of the _____ day of _____, _____.

JP MORGAN CHASE BANK, NATIONAL
ASSOCIATION

By _____
Name: _____
Title: _____

EXHIBIT B
FEE AGREEMENT

FEE AGREEMENT

This Fee Agreement dated June 1, 2011, is between the City of Austin, Texas (the "City") and JPMorgan Chase Bank, National Association (the "Bank"). Reference is hereby made to the Letter of Credit Reimbursement Agreement dated June 1, 2011 (the "Reimbursement Agreement") by and between the Bank and the City relating to the City's Combined Utility Systems Taxable Commercial Paper Notes (the "Notes"). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Reimbursement Agreement.

The purpose of this Fee Agreement is to set forth the agreement between the Bank and the City with respect to fees payable to the Bank pursuant to the Reimbursement Agreement. This Bank Fee Agreement constitutes the "Fee Agreement" as such term is defined in the Reimbursement Agreement.

Article I

Section 1.1 Definitions. The terms "Applicable Commitment Fee Percentage" "Applicable Letter of Credit Fee Percentage" "Bank Rate" "Base Rate," "Default Rate," and "Term Loan Rate" have the meanings set forth below:

(a) "Applicable Commitment Fee Percentage" means the percentage amount determined as a function of the unenhanced rating assigned by a Rating Agency to either of the City's Parity Electric Utility Obligations or Parity Water/Wastewater Obligations, whichever obligations have the lowest rating, in accordance with the schedule below.

<u>Level</u>	<u>Rating</u> <u>Moody's/S&P/Fitch</u>	<u>Applicable</u> <u>Commitment Fee Percentage</u>
Level 1	A1 / A+/A+	.85%
Level 2	A2 / A/A	1.05%
Level 3	A3 / A-/A-	1.25%
Level 4	Baa1 / BBB+/BBB+	1.45%
Level 5	Baa2 / BBB/BBB	1.65%
Level 6	Baa3 / BBB-/BBB-	1.85%

In the event of split ratings among Moody's, S&P and Fitch the Applicable Commitment Fee Percentage shall be determined from the lowest of the three ratings. Any change in the Applicable Commitment Fee Percentage resulting from a change in a rating shall be and become effective as of and on the date of the announcement of the change in such rating. References to ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system by any such Rating Agency, each of the ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system which most closely approximates the

applicable rating category as currently in effect. The City acknowledges, and the Banks agree, that as of the Effective Date the Applicable Commitment Fee Percentage is that specified above, Level 1. Upon the occurrence and during the continuance of an Event of Default or in the event that any rating is suspended, withdrawn or is otherwise unavailable, in each case for credit related reasons, the Applicable Commitment Fee Percentage shall be increased from the rate then in effect by an additional one and one-half percent (1.50%). The Commitment Fee shall be payable quarterly in arrears, together with interest on the Commitment Fees from the date payment is due until payment in full at the Default Rate.

(b) “*Applicable Letter of Credit Fee Percentage*” means the percentage amount determined as a function of the unenhanced rating assigned by a Rating Agency to either of the City’s Parity Electric Utility Obligations or Parity Water/Wastewater Obligations, whichever obligations have the lowest rating, in accordance with the schedule below.

<u>Level</u>	<u>Rating</u> <u>Moody’s/S&P/Fitch</u>	<u>Applicable</u> <u>Letter of Credit Fee</u> <u>Percentage</u>
Level 1	A1 / A+/A+	.90%
Level 2	A2 / A/A	1.10%
Level 3	A3 / A-/A-	1.30%
Level 4	Baa1 / BBB+/BBB+	1.50%
Level 5	Baa2 / BBB/BBB	1.70%
Level 6	Baa3 / BBB-/BBB-	1.90%

In the event of split ratings among Moody’s, S&P and Fitch the Applicable Letter of Credit Fee shall be determined from the lowest of the three ratings. Any change in the Applicable Letter of Credit Fee Percentage resulting from a change in a rating shall be and become effective as of and on the date of the announcement of the change in such rating. References to ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system by any such Rating Agency, each of the ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as currently in effect. The City acknowledges, and the Banks agree, that as of the Effective Date the Applicable Letter of Credit Fee Percentage is that specified above for Level 1. Upon the occurrence and during the continuance of an Event of Default or in the event that any Rating is suspended, withdrawn or is otherwise unavailable, in each case for credit related reasons, the Applicable Letter of Credit Fee Percentage shall be increased from the rate then in effect by an additional one and one-half percent (1.50%). The Letter of Credit Fees shall be payable quarterly in arrears, together with interest on the Letter of Credit Fees from the date payment is due until payment in full at the Default Rate.

(c) “*Bank Rate*” means the rate of interest per annum with respect to an Advance (i) for any day commencing on the date such Advance is made up to and including the ninetieth (90th) day next succeeding the date such Advance is made, equal to the Base Rate from time to

time in effect, and (ii) for any day commencing on or after the ninety-first (91st) day next succeeding the date such Advance is made, equal to the sum of the Base Rate from time to time in effect *plus 1%*; *provided, however*, that immediately and automatically upon the occurrence of an Event of Default (and without any notice given with respect thereto) and during the continuance of such Event of Default, “Bank Rate” shall mean the Default Rate. The Bank Rate shall never be less than the rate of interest on the Notes. Additionally the Bank Rate shall never be greater than the Maximum Rate subject to the clawback provision set forth in Section 2.03(i) of the Reimbursement Agreement.

(d) “*Base Rate*” means a per annum, variable rate of interest equal to the highest of (a) the Prime Rate plus 1.50%; (b) the Fed Funds Rate plus 2.00%; and (c) 7.50% but in no event shall the Base Rate exceed the Maximum Rate subject to the clawback provision set forth in Section 2.03(i) of the Reimbursement Agreement.

(e) “*Default Rate*” means a per annum, variable rate of interest equal to the Base Rate plus 3.50%, provided, however, that the Default Rate shall never exceed the Maximum Rate subject to the clawback provision set forth in Section 2.03(i) of the Reimbursement Agreement.

(f) “*Termination Fee*” means an amount equal to the Letter of Credit Fee and the Commitment Fee (based upon the amount of the Total Commitment in effect on the Closing Date) that would be due up to and including the Letter of Credit Expiration Date, less the actual amount of Letter of Credit Fees and Commitment Fees the City has previously paid to the Bank.

(g) “*Term Loan Rate*” means Base Rate plus 1%.

Section 1.2 Change in Stated Amount Fee. Upon any adjustment in the Stated Amount of the Letter of Credit pursuant to Section 2.02 of the Reimbursement Agreement the City shall pay a fee of \$250 to the Bank, plus the Bank’s actual costs and expenses associated with such amendment, payable on the date of such change.

Section 1.3 Drawing Fee. In connection with each Drawing under the Letter of Credit, the City shall pay to the Bank a drawing fee in the amount of \$500 as payment for the Bank’s transactional costs related to such Drawing. The drawing fee shall be payable on the same day as the related Drawing.

Section 1.4 Amendment and Transfer Fee. The City agrees to pay, or cause to be paid, to the Bank, on the date of each amendment, supplement or modification to the Reimbursement Agreement, a Letter of Credit or this Fee Agreement, transfer of a Letter of Credit to a successor beneficiary, or execution of any standard waiver or consent, a non-refundable fee equal to \$2,500, plus, in each case, the reasonable fees and expenses of outside counsel to the Bank. Extensions to the term of the Letter of Credit alone will not require the payment of such fee, but will require the payment of related reasonable fees and expenses of outside legal counsel to the Bank.

Section 1.5. Legal Fees. The City shall pay, or caused to be paid, on the Closing Date the legal fees of Andrews Kurth LLP in an amount not to exceed \$45,000 for preparation of the Reimbursement Agreement and this Fee Agreement.

Section 1.6. Out of Pocket Expenses. As a condition to closing on the Reimbursement Agreement, the City shall pay the Bank's out-of-pocket expenses (if any) in an amount not to exceed \$3,000.

Section 1.7. Past Due Amounts. Any amounts due to the Bank hereunder that are past due shall accrue interest at the Default Rate from the date due but excluding the date of payment in full.

Article II. Miscellaneous.

Section 2.1 Amendments. No amendment to this Fee Agreement shall become effective without the prior written consent of the Bank and the City.

Section 2.2. Governing Law. **THIS FEE AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS; PROVIDED, THAT THE OBLIGATIONS OF THE BANK SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

Section 2.3. Counterparts. This Fee Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Bank Fee Agreement may be delivered by the exchange of signed signature pages by facsimile transmission or by email with a pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page.

Section 2.4. Severability. Any provision of this Bank Fee Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Fee Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

CITY OF AUSTIN, TEXAS

By: _____
Name: _____
Title: _____

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____